

Criminal Offenses Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor:

LONG TITLE**General Description:**

This bill addresses changes related to certain criminal offenses and enhance

Highlighted Provisions:

This bill:

▸ amends the enhancement for offenses committed in concert with three or more persons or in relation to a criminal street gang;

▸ amends certain theft and retail theft sentencing enhancements to include prior convictions in other state, federal, or military courts;

▸ clarifies that in sentencing for an offense related to retail theft, the value of the stolen item is determined by the item's retail value;

▸ increases penalties for an individual who:

- acts to bring a minor into a criminal street gang in certain circumstances; and
- acts to intimidate a minor into remaining in a criminal street gang in certain

circumstances; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-203.1, as last amended by Laws of Utah 2024, Chapter 96

76-6-404, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407

76-6-404.5, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407

76-6-404.7, as last amended by Laws of Utah 2023, Chapter 111

76-6-405, as last amended by Laws of Utah 2023, Chapter 111 and last amended by

32 Coordination Clause, Laws of Utah 2023, Chapter 407
 33 **76-6-406**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
 34 Coordination Clause, Laws of Utah 2023, Chapter 407
 35 **76-6-407**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
 36 Coordination Clause, Laws of Utah 2023, Chapter 407
 37 **76-6-408**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
 38 Coordination Clause, Laws of Utah 2023, Chapter 407
 39 **76-6-409**, as last amended by Laws of Utah 2023, Chapter 111
 40 **76-6-409.3**, as last amended by Laws of Utah 2023, Chapter 111
 41 **76-6-410**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
 42 Coordination Clause, Laws of Utah 2023, Chapter 407
 43 **76-6-602**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
 44 Coordination Clause, Laws of Utah 2023, Chapter 407
 45 **76-6-608**, as last amended by Laws of Utah 2023, Chapter 111
 46 **76-9-802**, as last amended by Laws of Utah 2024, Chapter 96
 47 **76-9-803**, as enacted by Laws of Utah 2008, Chapter 15
 48 **76-10-1602**, as last amended by Laws of Utah 2024, Chapter 96
 49 **78B-6-1101**, as last amended by Laws of Utah 2021, Chapter 207
 50 **78B-6-1107**, as last amended by Laws of Utah 2021, Chapter 207

51 ENACTS:

52 **76-9-803.1**, Utah Code Annotated 1953
 53 **76-9-803.2**, Utah Code Annotated 1953
 54 **76-9-803.3**, Utah Code Annotated 1953

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

57 Section 1. Section **76-3-203.1** is amended to read:

58 **76-3-203.1 . Enhanced penalty for offenses committed in or for a certain group.**

59 (1) As used in this section:

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

61 (b) "In concert with [~~three~~] one or more [~~persons~~] individuals" means:

62 (i) the [~~defendant~~] actor was aided or encouraged by [~~at least three other~~] [~~persons~~]
 63 another individual in committing [~~the~~] an offense and was aware of this aid or
 64 encouragement; and

65 (ii) [~~each of the other persons~~] the other individual:

- 66 (A) was physically present; and
- 67 (B) participated as a party to ~~[any]~~ an offense listed in Subsection ~~[(4),](5)[, or (6)].~~
- 68 (c) "In concert with ~~[three]~~ one or more ~~[persons]~~ individuals" means, regarding intent:
- 69 (i) any other ~~[persons]~~ individual participating as ~~[parties]~~ a party need not have the
- 70 intent to engage in the same offense or degree of offense as the ~~[defendant]~~ actor;
- 71 and
- 72 (ii) a minor is a party if the minor's actions would cause the minor to be a party if the
- 73 minor were an adult.
- 74 (d) "Organized criminal group" means a group of three or more individuals, whether
- 75 operating formally or informally, that:
- 76 (i) has as one of the group's purposes the commission of criminal offenses; and
- 77 (ii) whose members collectively engage in committing criminal offenses for the
- 78 financial or other material benefit of the members or group.
- 79 (2) ~~[A person]~~ An actor who commits ~~[any offense in accordance with this section]~~ an
- 80 offense listed in Subsection (5) is subject to an enhanced penalty for the offense as
- 81 provided in Subsection (4)~~[(5), or (6)]~~ if the trier of fact finds beyond a reasonable
- 82 doubt that the ~~[person]~~ actor acted:
- 83 (a) in concert with ~~[three]~~ one or more ~~[persons]~~ individuals;
- 84 (b) for the benefit of, at the direction of, or in association with ~~[any]~~ a criminal street
- 85 gang [as defined in Section 76-9-802] or other organized criminal group; or
- 86 (c) to gain recognition, acceptance, membership, or increased status with a criminal
- 87 street gang [as defined in Section 76-9-802] or other organized criminal group.
- 88 (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be
- 89 subscribed upon the information or indictment notice that the ~~[defendant]~~ actor is subject
- 90 to the enhanced penalties provided under this section.
- 91 ~~[(4)(a) For an offense listed in Subsection (4)(b), a person may be charged as follows:]~~
- 92 ~~[(i) for a class B misdemeanor, as a class A misdemeanor; and]~~
- 93 ~~[(ii) for a class A misdemeanor, as a third-degree felony.]~~
- 94 ~~[(b) The following offenses are subject to Subsection (4)(a):]~~
- 95 ~~[(i) criminal mischief as described in Section 76-6-106;]~~
- 96 ~~[(ii) property damage or destruction as described in Section 76-6-106.1; and]~~
- 97 ~~[(iii) defacement by graffiti as described in Section 76-6-107.]~~
- 98 ~~[(5)(a) For an offense listed in Subsection (5)(b), a person may be charged as follows:]~~
- 99 ~~[(i) for a class B misdemeanor, as a class A misdemeanor;]~~

- 100 [(ii) for a class A misdemeanor, as a third degree felony; and]
- 101 [(iii) for a third degree felony, as a second degree felony.]
- 102 ~~[(b) The following offenses are subject to Subsection (5)(a):]~~
- 103 [(i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);]
- 104 [(ii) any offense of obstructing government operations under Chapter 8, Part 3, Obstructing
- 105 Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and
- 106 76-8-312;]
- 107 [(iii) tampering with a witness under Section 76-8-508;]
- 108 [(iv) retaliation against a witness, victim, or informant, or other violation of Section
- 109 76-8-508.3;]
- 110 [(v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;]
- 111 [(vi) extortion or bribery to dismiss a criminal proceeding as defined in Section 76-8-509;]
- 112 [(vii) any weapons offense under Chapter 10, Part 5, Weapons; and]
- 113 [(viii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act.]
- 114 ~~[(6) (4)(a)]~~ For an offense listed in Subsection ~~[(6)(b)]~~ (5), ~~[a person]~~ an actor:
- 115 (a) [-] may be charged as follows:
- 116 (i) for a class B misdemeanor, as a class A misdemeanor;
- 117 (ii) for a class A misdemeanor, as a third degree felony;
- 118 (iii) for a third degree felony, as a second degree felony; and
- 119 (iv) for a second degree felony, as a first degree felony; and
- 120 (b) if the offense is a first degree felony, shall be sentenced to an increase of five years
- 121 to the minimum term of the applicable sentence.
- 122 ~~[(b) (5)]~~ The ~~[following offenses are subject to Subsection (6)(a)]~~ offenses referred to in
- 123 Subsection (2) are:
- 124 (a) a criminal offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 125 (b) a criminal offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 126 (c) a criminal offense described in Title 58, Chapter 37b, Imitation Controlled
- 127 Substances Act;
- 128 (d) a criminal offense described in Title 58, Chapter 37c, Utah Controlled Substance
- 129 Precursor Act;
- 130 (e) criminal solicitation of a minor as described in Section 76-4-205;
- 131 ~~[(i) (f)]~~ ~~[assault and related offenses under]~~ an offense described in Chapter 5, Part 1,
- 132 Assault and Related Offenses;
- 133 ~~[(ii) (g)]~~ ~~[any criminal homicide offense under]~~ an offense described in Chapter 5, Part 2,

- 134 Criminal Homicide;
- 135 ~~[(iii)]~~ (h) [kidnapping and related offenses under] an offense described in Chapter 5, Part
- 136 3, Kidnapping, Trafficking, and Smuggling;
- 137 ~~[(iv)]~~ (i) [any felony sexual offense under] a felony offense described in Chapter 5, Part
- 138 4, Sexual Offenses;
- 139 ~~[(v)]~~ sexual exploitation of a minor as defined in Section 76-5b-201;
- 140 ~~[(vi)]~~ aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;
- 141 (j) a felony offense described in Chapter 5b, Part 2, Sexual Exploitation;
- 142 (k) an offense described in Chapter 6, Part 1, Property Destruction;
- 143 ~~[(vii)]~~ (l) robbery as described in Section 76-6-202;
- 144 (m) [-and] aggravated robbery [under Chapter 6, Part 3, Robbery] as described in Section
- 145 76-6-203;
- 146 (n) burglary as described in Subsection 76-6-202(3)(b);
- 147 (o) aggravated burglary as described in Section 76-6-203;
- 148 (p) an offense described in Chapter 6, Part 4, Theft;
- 149 (q) a felony offense described in Chapter 6, Part 5, Fraud;
- 150 (r) an offense described in Chapter 6, Part 6, Retail Theft;
- 151 (s) a felony violation of unlawful use of technology to defraud as described in Section
- 152 76-6-703.3;
- 153 (t) an offense described in Chapter 6, Part 11, Identity Fraud Act;
- 154 (u) conducting a pyramid scheme as described in Section 76-6a-102;
- 155 (v) an offense described in Chapter 8, Part 3, Obstructing Governmental Operations, not
- 156 including Section 76-8-302, 76-8-303, 76-8-307, 76-8-308, or 76-8-312;
- 157 (w) an offense described in Chapter 8, Part 5, Falsification in Official Matters;
- 158 (x) an offense described in Chapter 9, Part 3, Cruelty to Animals;
- 159 (y) an offense described in Chapter 9, Part 8, Criminal Street Gang Penalties;
- 160 (z) an offense described in Chapter 9, Part 9, Prohibition of Gang Activity;
- 161 (aa) a felony offense described in Chapter 10, Part 3, Explosives;
- 162 (bb) an offense described in Chapter 10, Part 4, Weapons of Mass Destruction;
- 163 (cc) an offense described in Chapter 10, Part 5, Weapons;[-and]
- 164 (dd) an offense described in Chapter 10, Part 7, Corporation Frauds;
- 165 (ee) gambling fraud as described in Section 76-10-1103;
- 166 (ff) possessing a gambling device or record as described in Section 76-10-1105;
- 167 (gg) fringe gaming devices as described in Section 76-10-1110;

- 168 (hh) a felony violation of aiding prostitution as described in Section 76-10-1304;
 169 (ii) exploiting prostitution as described in Section 76-10-1305;
 170 [~~viii~~] (jj) aggravated exploitation of prostitution under Section 76-10-1306[-] ;
 171 (kk) an offense under, Chapter 10, Part 15, Bus Passenger Safety Act;
 172 (ll) an offense described in Chapter 10, Part 16, Pattern of Unlawful Activity Act;
 173 (mm) communications fraud as described in Section 76-10-1801;
 174 (nn) an offense described in Chapter 10, Part 19, Money Laundering and Currency
 175 Transaction Reporting Act;
 176 (oo) burglary of a research facility as described in Section 76-10-2002;
 177 (pp) commercial obstruction as described in Section 76-10-2402; and
 178 (qq) transporting or harboring aliens as described in Section 76-10-2901.

179 [~~7~~] (6) [The] A court may, if not otherwise prohibited from doing so by another section of
 180 the code, suspend a sentence imposed under [Subsection (4), (5), or (6) may be
 181 suspended] this section and place the [individual placed] actor on probation[for the
 182 higher level of offense].

183 [~~8~~] (7) It is not a bar to imposing the enhanced penalties under this section that the [persons]
 184 individuals with whom the actor is alleged to have acted in concert are not identified,
 185 apprehended, charged, or convicted, or that any of those [persons] individuals are
 186 charged with or convicted of a different or lesser offense.

187 Section 2. Section **76-6-404** is amended to read:

188 **76-6-404 . Theft -- Elements.**

- 189 (1) Terms defined in Section 76-1-101.5 apply to this section.
 190 (2) An actor commits theft if the actor obtains or exercises unauthorized control over
 191 another person's property with a purpose to deprive the person of the person's property.
 192 (3) A violation of Subsection (2) is:
 193 (a) a second degree felony if the:
 194 (i) value of the property is or exceeds \$5,000;
 195 (ii) property stolen is a firearm or an operable motor vehicle; or
 196 (iii) property is stolen from the person of another;
 197 (b) a third degree felony if:
 198 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
 199 (ii) the property is:
 200 (A) a catalytic converter as defined under Section 76-6-1402; or
 201 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402

- 202 if the value is less than \$5,000 and the suspect metal is made of or contains
203 aluminum or copper and is not a lead battery;
- 204 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
205 convicted of any of the following offenses, if each prior offense was committed
206 within 10 years before the date of the current conviction or the date of the offense
207 upon which the current conviction is based and at least one of those convictions is
208 for a class A misdemeanor:
- 209 (A) any theft, any robbery, or any burglary with intent to commit theft;
210 (B) any offense under Part 5, Fraud;[-~~or~~]
211 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
212 (D) any offense in another jurisdiction, including a state, federal, or military court,
213 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
214 (B), or (C);
- 215 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
216 (B) the theft occurs on a property where the offender has committed any theft
217 within the past five years; and
218 (C) the offender has received written notice from the merchant prohibiting the
219 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 220 (v) the actor has been previously convicted of a felony violation of any of the
221 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C);~~] (D), if the
222 prior offense was committed within 10 years before the date of the current
223 conviction or the date of the offense upon which the current conviction is based;
- 224 (c) a class A misdemeanor if:
- 225 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
226 (ii)(A) the value of property is less than \$500;
227 (B) the theft occurs on a property where the offender has committed any theft
228 within the past five years; and
229 (C) the offender has received written notice from the merchant prohibiting the
230 offender from entering the property pursuant to Subsection 78B-3-108(4); or
231 (iii) the actor has been twice before convicted of any of the offenses listed in
232 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C);~~] (D), if each prior offense was
233 committed within 10 years before the date of the current conviction or the date of
234 the offense upon which the current conviction is based; or
- 235 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the

236 theft is not an offense under Subsection (3)(c).

237 Section 3. Section **76-6-404.5** is amended to read:

238 **76-6-404.5 . Unauthorized possession of property.**

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

240 (2) An actor commits unauthorized possession of property if the actor obtains or exercises
 241 unauthorized control over another person's property, without the consent of the
 242 property's owner or legal custodian, and with the intent to temporarily appropriate,
 243 possess, or use the property or to temporarily deprive the property's owner or legal
 244 custodian of possession of the property.

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

246 (a) a third degree felony if:

247 (i) the value of the property is or exceeds \$5,000;

248 (ii) the property is a firearm or an operable motor vehicle; or

249 (iii) the property is taken from the person of another;

250 (b) a class A misdemeanor if:

251 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

252 (ii) the property is:

253 (A) a catalytic converter as defined under Section 76-6-1402; or

254 (B) 25 pounds or more of a suspect metal item is defined under Section 76-6-1402

255 if the value is less than \$5,000 and the suspect metal is made of or contains

256 aluminum or copper and is not a lead battery;

257 (iii) the value of the property is or exceeds \$500 and the actor has been twice before

258 convicted of any of the following offenses, if each prior offense was committed

259 within 10 years before the date of the current conviction or the date of the offense

260 upon which the current conviction is based and at least one of those convictions is

261 for a class A misdemeanor:

262 (A) any theft, any robbery, or any burglary with intent to commit theft;

263 (B) any offense under Part 5, Fraud;[-~~or~~]

264 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

265 (D) any offense in another jurisdiction, including a state, federal, or military court,

266 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),

267 (B), or (C);

268 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;

269 (B) the unauthorized possession of property occurs on a property where the

- 270 offender has committed any theft within the past five years; and
- 271 (C) the offender has received written notice from the merchant prohibiting the
- 272 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 273 (v) the actor has been previously convicted of a felony violation of any of the
- 274 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if the
- 275 prior offense was committed within 10 years before the date of the current
- 276 conviction or the date of the offense upon which the current conviction is based;
- 277 (c) a class B misdemeanor if:
- 278 (i) the value of the property is or exceeds \$500 but is less than \$1,500;
- 279 (ii)(A) the value of property is less than \$500;
- 280 (B) the unauthorized possession of property occurs on a property where the
- 281 offender has committed any theft within the past five years; and
- 282 (C) the offender has received written notice from the merchant prohibiting the
- 283 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 284 (iii) the actor has been twice before convicted of any of the offenses listed in
- 285 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if each prior offense was
- 286 committed within 10 years before the date of the current conviction or the date of
- 287 the offense upon which the current conviction is based; or
- 288 (d) a class C misdemeanor if the value of the property is less than \$500 and the
- 289 unauthorized possession of property is not an offense under Subsection (3)(c).
- 290 (4) Unauthorized possession of property is a lesser included offense of the offense of theft
- 291 under Section 76-6-404.
- 292 (5) The consent of the owner or legal custodian of the property to the property's control by
- 293 the actor is not presumed or implied because of the owner's or legal custodian's consent
- 294 on a previous occasion to the control of the property by any person.

295 Section 4. Section **76-6-404.7** is amended to read:

296 **76-6-404.7 . Theft of motor vehicle fuel.**

- 297 (1)(a) As used in this section, "motor vehicle fuel" means any combustible gas, liquid,
- 298 matter, or substance that is used in an internal combustion engine for the generation
- 299 of power.
- 300 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 301 (2) An actor commits theft of motor vehicle fuel if the actor:
- 302 (a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for
- 303 retail sale when motor fuel has been dispensed into:

- 304 (i) the fuel tank of the motor vehicle; or
- 305 (ii) any other container that is then removed from the premises by means of the motor
- 306 vehicle; and
- 307 (b) commits the act under Subsection (2)(a) with the intent to deprive the owner or
- 308 operator of the premises of the motor vehicle fuel without making full payment for
- 309 the fuel.
- 310 (3) A violation of Subsection (2) is:
- 311 (a) a second degree felony if the value of the motor vehicle fuel is or exceeds \$5,000;
- 312 (b) a third degree felony if:
- 313 (i) the value of the motor vehicle fuel is or exceeds \$1,500 but is less than \$5,000;[~~or~~]
- 314 (ii) the value of the motor vehicle fuel is or exceeds \$500 and the actor has been
- 315 twice before convicted of any of the following offenses, if each prior offense was
- 316 committed within 10 years before the date of the current conviction or the date of
- 317 the offense upon which the current conviction is based and at least one of those
- 318 convictions is for a class A misdemeanor:
- 319 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 320 (B) any offense under Part 5, Fraud;[~~or~~]
- 321 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or
- 322 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 323 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 324 (B), or (C);
- 325 (iii)(A) the value of the motor vehicle fuel is or exceeds \$500 but is less than
- 326 \$1,500;
- 327 (B) the theft occurs on a property where the offender has committed any theft
- 328 within the past five years; and
- 329 (C) the offender has received written notice from the merchant prohibiting the
- 330 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 331 (iv) the actor has been previously convicted of a felony violation of any of the
- 332 offenses listed in Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C),~~] (D), if the prior
- 333 offense was committed within 10 years before the date of the current conviction or
- 334 the date of the offense upon which the current conviction is based;
- 335 (c) a class A misdemeanor if:
- 336 (i) the value of the motor vehicle fuel is or exceeds \$500 but is less than \$1,500;
- 337 (ii)(A) the value of the motor vehicle fuel is less than \$500;

- 338 (B) the theft occurs on a property where the offender has committed any theft
 339 within the past five years; and
 340 (C) the offender has received written notice from the merchant prohibiting the
 341 offender from entering the property pursuant to Subsection 78B-3-108(4); or
 342 (iii) the actor has been twice before convicted of any of the offenses listed in
 343 Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C)~~], (D), if each prior offense was
 344 committed within 10 years before the date of the current conviction or the date of
 345 the offense upon which the current conviction is based; or
 346 (d) a class B misdemeanor if the value of the motor vehicle fuel is less than \$500 and the
 347 theft is not an offense under Subsection (3)(c).

348 (4)(a) In addition to the penalties described in Subsection (3), the sentencing court may
 349 order the suspension of the driver license of an actor convicted of theft of motor
 350 vehicle fuel.

351 (b) The suspension described in Subsection (4)(a) may not be for more than 90 days as
 352 provided in Section 53-3-220.

353 Section 5. Section **76-6-405** is amended to read:

354 **76-6-405 . Theft by deception.**

355 (1)(a) As used in this section, "puffing" means an exaggerated commendation of wares
 356 or worth in a communication addressed to an individual, group, or the public.

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

358 (2)(a) An actor commits theft by deception if the actor obtains or exercises control over
 359 property of another person:

360 (i) by deception; and

361 (ii) with a purpose to deprive the other person of property.

362 (b) The deception described in Subsection (2)(a)(i) and the deprivation described in
 363 Subsection (2)(a)(ii) may occur at separate times.

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

365 (a) a second degree felony if the:

366 (i) value of the property is or exceeds \$5,000; or

367 (ii) property stolen is a firearm or an operable motor vehicle;

368 (b) a third degree felony if:

369 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

370 (ii) the property:

371 (A) is a catalytic converter as defined under Section 76-6-1402; or

- 372 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
373 if the value is less than \$5,000 and the suspect metal is made of or contains
374 aluminum or copper and is not a lead battery;
- 375 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
376 convicted of any of the following offenses, if each prior offense was committed
377 within 10 years before the date of the current conviction or the date of the offense
378 upon which the current conviction is based and at least one of those convictions is
379 for a class A misdemeanor:
- 380 (A) any theft, any robbery, or any burglary with intent to commit theft;
381 (B) any offense under Part 5, Fraud;[-or]
382 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
383 (D) any offense in another jurisdiction, including a state, federal, or military court,
384 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
385 (B), or (C);
- 386 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
387 (B) the theft occurs on a property where the offender has committed any theft
388 within the past five years; and
389 (C) the offender has received written notice from the merchant prohibiting the
390 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 391 (v) the actor has been previously convicted of a felony violation of any of the
392 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
393 prior offense was committed within 10 years before the date of the current
394 conviction or the date of the offense upon which the current conviction is based;
- 395 (c) a class A misdemeanor if:
- 396 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
397 (ii)(A) the value of property is less than \$500;
398 (B) the theft occurs on a property where the offender has committed any theft
399 within the past five years; and
400 (C) the offender has received written notice from the merchant prohibiting the
401 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 402 (iii) the actor has been twice before convicted of any of the offenses listed in
403 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
404 committed within 10 years before the date of the current conviction or the date of
405 the offense upon which the current conviction is based; or

406 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
407 theft is not an offense under Subsection (3)(c).

408 (4) Theft by deception does not occur when there is only:

409 (a) falsity as to matters having no pecuniary significance; or

410 (b) puffing by statements unlikely to deceive an ordinary person in the group addressed.

411 Section 6. Section **76-6-406** is amended to read:

412 **76-6-406 . Theft by extortion.**

413 (1)(a) As used in this section, extortion occurs when an actor threatens to:

414 (i) cause physical harm in the future to the person threatened, to any other person, or
415 to property at any time;

416 (ii) subject the person threatened or any other person to physical confinement or
417 restraint;

418 (iii) engage in other conduct constituting a crime;

419 (iv) accuse any person of a crime or expose any person to hatred, contempt, or
420 ridicule;

421 (v) reveal any information sought to be concealed by the person threatened;

422 (vi) testify, provide information, or withhold testimony or information with respect to
423 a person's legal claim or defense;

424 (vii) take action as an official against anyone or anything, or withhold official action,
425 or cause such action or withholding;

426 (viii) bring about or continue a strike, boycott, or other similar collective action to
427 obtain property that is not demanded or received for the benefit of the group that
428 the actor purports to represent; or

429 (ix) do any other act which would not in itself substantially benefit the actor but
430 which would harm substantially any other person with respect to that person's
431 health, safety, business, calling, career, financial condition, reputation, or personal
432 relationships.

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

434 (2) An actor commits theft by extortion if the actor obtains or exercises control over the
435 property of another person by extortion and with a purpose to deprive the person of the
436 person's property.

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

438 (a) a second degree felony if the:

439 (i) value of the property is or exceeds \$5,000;

- 440 (ii) property stolen is a firearm or an operable motor vehicle; or
 441 (iii) property is stolen from the person of another;
- 442 (b) a third degree felony if:
- 443 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 444 (ii) the property is:
- 445 (A) a catalytic converter as defined under Section 76-6-1402; or
 446 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
 447 if the value is less than \$5,000 and the suspect metal is made of or contains
 448 aluminum or copper and is not a lead battery;
- 449 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
 450 convicted of any of the following offenses, if each prior offense was committed
 451 within 10 years before the date of the current conviction or the date of the offense
 452 upon which the current conviction is based and at least one of those convictions is
 453 for a class A misdemeanor:
- 454 (A) any theft, any robbery, or any burglary with intent to commit theft;
 455 (B) any offense under Part 5, Fraud;[-~~or~~]
 456 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
 457 (D) any offense in another jurisdiction, including a state, federal, or military court,
 458 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
 459 (B), or (C);
- 460 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
 461 (B) the theft occurs on a property where the offender has committed any theft
 462 within the past five years; and
 463 (C) the offender has received written notice from the merchant prohibiting the
 464 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 465 (v) the actor has been previously convicted of a felony violation of any of the
 466 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
 467 prior offense was committed within 10 years before the date of the current
 468 conviction or the date of the offense upon which the current conviction is based;
- 469 (c) a class A misdemeanor if:
- 470 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 471 (ii)(A) the value of property is less than \$500;
 472 (B) the theft occurs on a property where the offender has committed any theft
 473 within the past five years; and

- 474 (C) the offender has received written notice from the merchant prohibiting the
 475 offender from entering the property pursuant to Subsection 78B-3-108(4); or
 476 (iii) the actor has been twice before convicted of any of the offenses listed in
 477 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~] (D), if each prior offense was
 478 committed within 10 years before the date of the current conviction or the date of
 479 the offense upon which the current conviction is based; or
 480 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 481 theft is not an offense under Subsection (3)(c).

482 (4)(a) A person who is adversely impacted by the conduct prohibited in Subsection (2)
 483 may bring a civil action for equitable relief and damages.

484 (b) In accordance with Section 78B-2-305, a person who brings an action under
 485 Subsection (4)(a) shall commence the action within three years after the day on
 486 which the cause of action arises.

487 Section 7. Section **76-6-407** is amended to read:

488 **76-6-407 . Theft of lost, mislaid, or mistakenly delivered property.**

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

490 (2) An actor commits theft of lost, mislaid, or mistakenly delivered property if the actor:

491 (a) obtains another person's property and knows the property to have been lost or
 492 mislaid, or to have been delivered under a mistake as to the identity of the recipient
 493 or as to the nature or amount of the property, without taking reasonable measures to
 494 return the property to the owner; and

495 (b) has the purpose to deprive the owner of the property when the actor obtains the
 496 property or at any time before taking the measures described in Subsection (2)(a).

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

498 (a) a second degree felony if the:

499 (i) value of the property is or exceeds \$5,000;

500 (ii) property stolen is a firearm or an operable motor vehicle; or

501 (iii) property is stolen from the person of another;

502 (b) a third degree felony if:

503 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

504 (ii) the property is:

505 (A) a catalytic converter as defined under Section 76-6-1402; or

506 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402

507 if the value is less than \$5,000 and the suspect metal is made of or contains

- 508 aluminum or copper and is not a lead battery;
- 509 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
 510 convicted of any of the following offenses, if each prior offense was committed
 511 within 10 years before the date of the current conviction or the date of the offense
 512 upon which the current conviction is based and at least one of those convictions is
 513 for a class A misdemeanor:
- 514 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 515 (B) any offense under Part 5, Fraud;[-or]
- 516 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 517 (D) any offense in another jurisdiction, including a state, federal, or military court,
 518 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
 519 (B), or (C);
- 520 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
- 521 (B) the theft occurs on a property where the offender has committed any theft
 522 within the past five years; and
- 523 (C) the offender has received written notice from the merchant prohibiting the
 524 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 525 (v) the actor has been previously convicted of a felony violation of any of the
 526 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
 527 prior offense was committed within 10 years before the date of the current
 528 conviction or the date of the offense upon which the current conviction is based;
- 529 (c) a class A misdemeanor if:
- 530 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 531 (ii)(A) the value of property is less than \$500;
- 532 (B) the theft occurs on a property where the offender has committed any theft
 533 within the past five years; and
- 534 (C) the offender has received written notice from the merchant prohibiting the
 535 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 536 (iii) the actor has been twice before convicted of any of the offenses listed in
 537 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
 538 committed within 10 years before the date of the current conviction or the date of
 539 the offense upon which the current conviction is based; or
- 540 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 541 theft is not an offense under Subsection (3)(c).

542 Section 8. Section **76-6-408** is amended to read:

543 **76-6-408 . Theft by receiving stolen property -- Duties of pawnbrokers,**
544 **secondhand businesses, coin dealers, and catalytic converter purchasers.**

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

546 (i) "Catalytic converter purchaser" means the same as that term is defined in Section
547 13-32a-102.

548 (ii) "Coin dealer" means the same as that term is defined in Section 13-32a-102.

549 (iii) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

550 (iv) "Receives" means acquiring possession, control, title, or lending on the security
551 of the property.

552 (v) "Scrap metal processor" means the same as that term is defined in Section
553 76-6-1402.

554 (vi) "Secondhand actor" means:

555 (A) a pawnbroker;

556 (B) a person who has or operates a business dealing in or collecting used or
557 secondhand merchandise or personal property; or

558 (C) an agent, employee, or representative of a pawnbroker or person who buys,
559 receives, or obtains property.

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

561 (2) An actor commits theft by receiving stolen property if the actor receives, retains, or
562 disposes of the property of another knowing that the property is stolen, or believing that
563 the property is probably stolen, or who conceals, sells, withholds, or aids in concealing,
564 selling, or withholding the property from the owner, knowing or believing the property
565 to be stolen, intending to deprive the owner of the property.

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

567 (a) a second degree felony if:

568 (i) the value of the property is or exceeds \$5,000; or

569 (ii) the property is a firearm or an operable motor vehicle;

570 (b) a third degree felony if:

571 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

572 (ii) the property is:

573 (A) a catalytic converter as defined under Section 76-6-1402; or

574 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
575 if the value is less the \$5,000 and the suspect metal is made of or contains

- 576 aluminum or copper and is not a lead battery;
- 577 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
 578 convicted of any of the following offenses, if each prior offense was committed
 579 within 10 years before the date of the current conviction or the date of the offense
 580 upon which the current conviction is based and at least one of those convictions is
 581 for a class A misdemeanor:
- 582 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 583 (B) any offense under Part 5, Fraud;[-or]
- 584 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 585 (D) any offense in another jurisdiction, including a state, federal, or military court,
 586 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
 587 (B), or (C); or
- 588 (iv) the actor has been previously convicted of a felony violation of any of the
 589 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
 590 prior offense was committed within 10 years before the date of the current
 591 conviction or the date of the offense upon which the current conviction is based;
- 592 (c) a class A misdemeanor if:
- 593 (i) the value of the property is or exceeds \$500 but is less than \$1,500; or
- 594 (ii) the actor has been twice before convicted of any of the offenses listed in
 595 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
 596 committed within 10 years before the date of the current conviction or the date of
 597 the offense upon which the current conviction is based; or
- 598 (d) a class B misdemeanor if the value of the property is less than \$500 and the theft is
 599 not an offense under Subsection (3)(c).
- 600 (4) Except as provided in Subsection (5), the knowledge or belief required under
 601 Subsection (2) is presumed in the case of an actor who:
- 602 (a) is found in possession or control of other property stolen on a separate occasion; or
- 603 (b) has received other stolen property within the year preceding the receiving offense
 604 charged.
- 605 (5)(a) The knowledge or belief required under Subsection (2) may only be presumed of
 606 a secondhand actor if the secondhand actor does not substantially comply with the
 607 material requirements of Section 13-32a-104.
- 608 (b) The knowledge or belief required under Subsection (2) may only be presumed of a
 609 coin dealer or an employee of a coin dealer if the coin dealer or the employee of the

- 610 coin dealer does not substantially comply with the requirements of Section
611 13-32a-104.5.
- 612 (c) The knowledge or belief required under Subsection (2) may only be presumed of a
613 catalytic converter purchaser if the catalytic converter purchaser does not
614 substantially comply with the material requirements of Section 13-32a-104.7.
- 615 (6) Unless acting as a catalytic converter purchaser, Subsection (5)(c) does not apply to a
616 scrap metal processor.
- 617 (7) This section does not preclude the admission of evidence in accordance with the Utah
618 Rules of Evidence.
- 619 (8) An actor who violates Subsection (2) is civilly liable for three times the amount of
620 actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable
621 attorney fees.

622 Section 9. Section **76-6-409** is amended to read:

623 **76-6-409 . Theft of service.**

- 624 (1)(a) As used in this section, "service" includes:
- 625 (i) labor, professional service, a public utility or transportation service, restaurant,
626 hotel, motel, tourist cabin, rooming house, and like accommodations, the
627 supplying of equipment, a tool, a vehicle, or a trailer for temporary use, telegraph
628 service, steam, admission to entertainment, an exhibition, a sporting event, or
629 other event for which a charge is made;
- 630 (ii) gas, electricity, water, sewer, or cable television service, only if the service is
631 obtained by threat, force, or a form of deception not described in Section
632 76-6-409.3; and
- 633 (iii) telephone service, only if the service is obtained by threat, force, or a form of
634 deception not described in Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or
635 76-6-409.9.
- 636 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 637 (2) An actor commits theft of service if:
- 638 (a) the actor, by deception, threat, force, or another means designed to avoid due
639 payment, obtains a service that the actor knows is available only for compensation; or
- 640 (b) the actor:
- 641 (i) has control over the disposition of another person's service; and
- 642 (ii)(A) diverts the other person's service to the benefit of the actor, knowing that
643 the actor is not entitled to the service; or

- 644 (B) diverts the other person's service to the benefit of a third person, knowing that
645 the third person is not entitled to the service.
- 646 (3) A violation of Subsection (2) is:
- 647 (a) a second degree felony if the value of the service is or exceeds \$5,000;
- 648 (b) a third degree felony if:
- 649 (i) the value of the service is or exceeds \$1,500 but is less than \$5,000;
- 650 (ii) the value of the service is or exceeds \$500 and the actor has been twice before
651 convicted of any of the following offenses, if each prior offense was committed
652 within 10 years before the date of the current conviction or the date of the offense
653 upon which the current conviction is based and at least one of those convictions is
654 for a class A misdemeanor:
- 655 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 656 (B) any offense under Part 5, Fraud;[-~~or~~]
- 657 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or
- 658 (D) any offense in another jurisdiction, including a state, federal, or military court,
659 that is substantially equivalent to an offense under Subsection (3)(b)(ii)(A),
660 (B), or (C);
- 661 (iii)(A) the value of the service is or exceeds \$500 but is less than \$1,500;
- 662 (B) the theft occurs on a property where the offender has committed any theft
663 within the past five years; and
- 664 (C) the offender has received written notice from the merchant prohibiting the
665 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 666 (iv) the actor has been previously convicted of a felony violation of any of the
667 offenses listed in Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C),~~] (D), if the prior
668 offense was committed within 10 years before the date of the current conviction or
669 the date of the offense upon which the current conviction is based;
- 670 (c) a class A misdemeanor if:
- 671 (i) the value of the service stolen is or exceeds \$500 but is less than \$1,500;
- 672 (ii)(A) the value of the service is less than \$500;
- 673 (B) the theft occurs on a property where the offender has committed any theft
674 within the past five years; and
- 675 (C) the offender has received written notice from the merchant prohibiting the
676 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 677 (iii) the actor has been twice before convicted of any of the offenses listed in

678 Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C)~~,] (D), if each prior offense was
679 committed within 10 years before the date of the current conviction or the date of
680 the offense upon which the current conviction is based; or

681 (d) a class B misdemeanor if the value of the service is less than \$500 and the theft is not
682 an offense under Subsection (3)(c).

683 Section 10. Section **76-6-409.3** is amended to read:

684 **76-6-409.3 . Theft of utility or cable television services -- Restitution -- Civil**
685 **action for damages.**

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

687 (i) "Cable television service" means an audio, video, or data service provided for
688 payment by a cable television company over the cable company's cable system
689 facilities, but does not include the use of a satellite dish or antenna.

690 (ii) "Occupant" includes a person, including the owner, who occupies the whole or
691 part of a building, whether alone or with others.

692 (iii) "Owner" includes a partial owner, joint owner, tenant in common, joint tenant, or
693 tenant by the entirety of the whole or a part of a building and the property on
694 which the building is located.

695 (iv) "Person" means an individual, firm, partnership, corporation, company,
696 association, or other legal entity.

697 (v) "Tenant" includes a person, including the owner, who occupies the whole or part
698 of any building, whether alone or with others.

699 (vi) "Utility" means any public utility, municipally owned utility, or cooperative
700 utility that provides electricity, gas, water, or sewer, or any combination of
701 electricity, gas, water, or sewer, for sale to consumers.

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

703 (2) An actor commits theft of a utility or cable television service if, with intent to avoid due
704 payment to the utility or cable television company, the actor makes gas, electricity,
705 water, sewer, or cable television available to a tenant or occupant, including to the actor,
706 by committing any of the following acts:

707 (a) connecting a tube, pipe, wire, cable, or other instrument with any meter, device, or
708 other instrument used for conducting gas, electricity, water, sewer, or cable television
709 in a manner as permits the use of the gas, electricity, water, sewer, or cable television
710 without the gas, electricity, water, sewer, or cable television passing through a meter
711 or other instrument recording the usage for billing;

- 712 (b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or
713 other instrument used for measuring quantities of gas, electricity, water, or sewer
714 service, or making or maintaining any modification or alteration to any device
715 installed with the authorization of a cable television company for the purpose of
716 intercepting or receiving any program or other service carried by the company that
717 the actor is not authorized by the company to receive;
- 718 (c) reconnecting a gas, electricity, water, sewer, or cable television connection or
719 otherwise restoring service when one or more of those utilities or cable service has
720 been lawfully disconnected or turned off by the provider of the utility or cable service;
- 721 (d) intentionally breaking, defacing, or causing to be broken or defaced a seal, locking
722 device, or other part of a metering device for recording usage of gas, electricity,
723 water, or sewer service, or a security system for the recording device, or a cable
724 television control device;
- 725 (e) removing a metering device designed to measure quantities of gas, electricity, water,
726 or sewer service;
- 727 (f) transferring from one location to another location a metering device for measuring
728 quantities of public utility services of gas, electricity, water, or sewer service;
- 729 (g) changing the indicated consumption, jamming the measuring device, bypassing the
730 meter or measuring device with a jumper so that it does not indicate use or registers
731 use incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer
732 service from the utility without the gas, electricity, water, or sewer service passing
733 through a metering device for measuring quantities of consumption for billing
734 purposes;
- 735 (h) using a metering device belonging to the utility that has not been assigned to the
736 location and installed by the utility;
- 737 (i) fabricating or using a device to pick or otherwise tamper with the locks used to deter
738 utility service diversion, meter tampering, meter thefts, and unauthorized cable
739 television service;
- 740 (j) assisting or instructing a person in obtaining or attempting to obtain any cable
741 television service without payment of all lawful compensation to the company
742 providing the service;
- 743 (k) making or maintaining a connection or connections, whether physical, electrical,
744 mechanical, acoustical, or by other means, with a cable, wire, component, or other
745 device used for the distribution of cable television services without authority from the

746 cable television company; or

747 (l) possessing without authority any device or printed circuit board designed in whole or
748 in part to receive any cable television programming or service offered for sale over a
749 cable television system, unless the device or printed circuit board includes the use of
750 a satellite dish or antenna, with the intent that the device or printed circuit be used for
751 the reception of the cable television company's services without payment.

752 (3)(a) A violation of Subsection (2), if the violation is a theft of a utility service, is:

753 (i) a second degree felony if:

754 (A) the value of the gas, electricity, water, or sewer service is or exceeds \$5,000;

755 or

756 (B) if the actor previously has been convicted of a violation of this section;

757 (ii) a third degree felony if the value of the gas, electricity, water, or sewer service is
758 or exceeds \$1,500 but is not more than \$5,000;

759 (iii) a class A misdemeanor if the value of the gas, electricity, water, or sewer service
760 is or exceeds \$500 but is not more than \$1,500; or

761 (iv) a class B misdemeanor if the value of the gas, electricity, water, or sewer service
762 is less than \$500.

763 (b) A violation of Subsection (2), if the violation is a theft of a cable television service,
764 is:

765 (i) a second degree felony if the value of the service is or exceeds \$5,000;

766 (ii) a third degree felony if:

767 (A) the value of the service is or exceeds \$1,500 but is less than \$5,000;

768 (B) the value of the service is or exceeds \$500 and the actor has been twice before
769 convicted of any of the following offenses, if each prior offense was committed
770 within 10 years before the date of the current conviction or the date of the
771 offense upon which the current conviction is based and at least one of those
772 convictions is for a class A misdemeanor:

773 (I) any theft, any robbery, or any burglary with intent to commit theft;

774 (II) any offense under Part 5, Fraud;[-~~o~~]

775 (III) any attempt to commit any offense under Subsection (3)(b)(ii)(B)(I) or (II);

776 or

777 (IV) any offense in another jurisdiction, including a state, federal, or military
778 court, that is substantially equivalent to an offense under Subsection

779 (3)(b)(ii)(B)(I), (II), or (III); or

780 (C) the actor has been previously convicted of a felony violation of any of the
 781 offenses listed in Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(H),~~] (IV),
 782 if the prior offense was committed within 10 years before the date of the
 783 current conviction or the date of the offense upon which the current conviction
 784 is based;

785 (iii) a class A misdemeanor if:

786 (A) the value of the service stolen is or exceeds \$500 but is less than \$1,500; or

787 (B) the actor has been twice before convicted of any of the offenses listed in
 788 Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(H),~~] (IV), if each prior
 789 offense was committed within 10 years before the date of the current
 790 conviction or the date of the offense upon which the current conviction is
 791 based; or

792 (iv) a class B misdemeanor if the value of the service is less than \$500 and the theft is
 793 not an offense under Subsection (3)(b)(iii).

794 (c)(i) An actor who violates this section shall make restitution to the utility or cable
 795 television company for the value of the gas, electricity, water, sewer, or cable
 796 television service consumed in violation of this section plus all reasonable
 797 expenses and costs incurred on account of the violation of this section.

798 (ii) Reasonable expenses and costs include expenses and costs for investigation,
 799 disconnection, reconnection, service calls, employee time, and equipment use.

800 (4)(a) The presence on property in the possession of an actor of a device or alteration
 801 that permits the diversion or use of utility or cable service to avoid the registration of
 802 the use by or on a meter installed by the utility or to otherwise avoid the recording of
 803 use of the service for payment or otherwise avoid payment gives rise to an inference
 804 that the actor in possession of the property installed the device or caused the
 805 alteration if:

806 (i) the presence of the device or alteration can be attributed only to a deliberate act in
 807 furtherance of an intent to avoid payment for utility or cable television service; and

808 (ii) the actor charged has received the direct benefit of the reduction of the cost of the
 809 utility or cable television service.

810 (b) An actor who aids or abets in a prohibited act is a party to the offense under Section
 811 76-2-202.

812 (5)(a) Criminal prosecution under this section does not affect the right of a utility or
 813 cable television company to bring a civil action for redress for damages suffered as a

814 result of the commission of any of the acts prohibited by this section.

815 (b) This section does not abridge or alter any other right, action, or remedy otherwise
816 available to a utility or cable television company.

817 Section 11. Section **76-6-410** is amended to read:

818 **76-6-410 . Theft by custodian of property pursuant to repair or rental agreement.**

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

820 (2) An actor commits theft by custodian of property pursuant to repair or rental agreement
821 if:

822 (a)(i) the actor has custody of property pursuant to an agreement between the actor
823 or another person and the property's owner;

824 (ii) the actor or another person is to perform for compensation a specific service for
825 the property's owner involving the maintenance, repair, or use of the owner's
826 property; and

827 (iii) the actor intentionally uses or operates the owner's property, without the consent
828 of the owner, for the actor's own purposes in a manner constituting a gross
829 deviation from the agreed purpose; or

830 (b)(i) the actor has custody of any property pursuant to a rental or lease agreement in
831 which the property is to be returned in a specified manner or at a specified time;
832 and

833 (ii) the actor intentionally fails to comply with the terms of the agreement concerning
834 return so as to render such failure a gross deviation from the agreement.

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

836 (a) a second degree felony if the:

837 (i) value of the property is or exceeds \$5,000; or

838 (ii) property stolen is a firearm or an operable motor vehicle;

839 (b) a third degree felony if:

840 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

841 (ii) the property is:

842 (A) a catalytic converter as defined under Section 76-6-1402; or

843 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
844 if the value is less than \$5,000 and the suspect metal is made of or contains
845 aluminum or copper and is not a lead battery;

846 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
847 convicted of any of the following offenses, if each prior offense was committed

- 848 within 10 years before the date of the current conviction or the date of the offense
 849 upon which the current conviction is based and at least one of those convictions is
 850 for a class A misdemeanor:
- 851 (A) any theft, any robbery, or any burglary with intent to commit theft;
 852 (B) any offense under Part 5, Fraud;[-ør]
 853 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
 854 (D) any offense in another jurisdiction, including a state, federal, or military court,
 855 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
 856 (B), or (C); or
- 857 (iv) the actor has been previously convicted of a felony violation of any of the
 858 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
 859 prior offense was committed within 10 years before the date of the current
 860 conviction or the date of the offense upon which the current conviction is based;
- 861 (c) a class A misdemeanor if:
- 862 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500; or
 863 (ii) the actor has been twice before convicted of any of the offenses listed in
 864 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
 865 committed within 10 years before the date of the current conviction or the date of
 866 the offense upon which the current conviction is based; or
- 867 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 868 theft is not an offense under Subsection (3)(c).

869 Section 12. Section **76-6-602** is amended to read:

870 **76-6-602 . Retail theft.**

- 871 (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.
- 872 (2) An actor commits retail theft if the actor knowingly:
- 873 (a) takes possession of, conceals, carries away, transfers or causes to be carried away or
 874 transferred, any merchandise displayed, held, stored, or offered for sale in a retail
 875 mercantile establishment with the intention of:
- 876 (i) retaining the merchandise; or
 877 (ii) depriving the merchant permanently of the possession, use or benefit of such
 878 merchandise without paying the retail value of the merchandise;
- 879 (b)(i) alters, transfers, or removes any label, price tag, marking, indicia of value, or
 880 any other markings which aid in determining value of any merchandise displayed,
 881 held, stored, or offered for sale, in a retail mercantile establishment; and

- 882 (ii) attempts to purchase the merchandise described in Subsection (2)(b)(i) personally
883 or in consort with another at less than the retail value with the intention of
884 depriving the merchant of the retail value of the merchandise;
- 885 (c) transfers any merchandise displayed, held, stored, or offered for sale in a retail
886 mercantile establishment from the container in or on which the merchandise is
887 displayed to any other container with the intention of depriving the merchant of the
888 retail value of the merchandise;
- 889 (d) under-rings with the intention of depriving the merchant of the retail value of the
890 merchandise; or
- 891 (e) removes a shopping cart from the premises of a retail mercantile establishment with
892 the intent of depriving the merchant of the possession, use, or benefit of the shopping
893 cart.
- 894 (3) A violation of Subsection (2) is:
- 895 (a) a second degree felony if the:
- 896 (i) retail value of the merchandise or shopping cart is or exceeds \$5,000;
- 897 (ii) merchandise stolen is a firearm or an operable motor vehicle;~~[-or]~~
- 898 (b) a third degree felony if:
- 899 (i) the retail value of the merchandise is or exceeds \$1,500 but is less than \$5,000;
- 900 (ii) the merchandise is:
- 901 (A) a catalytic converter as defined under Section 76-6-1402; or
- 902 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
903 if the retail value is less than \$5,000 and the suspect metal is made of or
904 contains aluminum or copper and is not a lead battery;
- 905 (iii) the retail value of the merchandise or shopping cart is or exceeds \$500 and the
906 actor has been twice before convicted of any of the following offenses, if each
907 prior offense was committed within 10 years before the date of the current
908 conviction or the date of the offense upon which the current conviction is based
909 and at least one of those convictions is for a class A misdemeanor:
- 910 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 911 (B) any offense under Part 5, Fraud;~~[-or]~~
- 912 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 913 (D) any offense in another jurisdiction, including a state, federal, or military court,
914 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
915 (B), or (C);

- 916 (iv)(A) the retail value of merchandise or shopping cart is or exceeds \$500 but is
 917 less than \$1,500;
- 918 (B) the theft occurs in a retail mercantile establishment or on the premises of a
 919 retail mercantile establishment where the offender has committed any theft
 920 within the past five years; and
- 921 (C) the offender has received written notice from the merchant prohibiting the
 922 offender from entering the retail mercantile establishment or premises of a
 923 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 924 (v) the actor has been previously convicted of a felony violation of any of the
 925 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~] (D), if the
 926 prior offense was committed within 10 years before the date of the current
 927 conviction or the date of the offense upon which the current conviction is based;
- 928 (c) a class A misdemeanor if:
- 929 (i) the retail value of the merchandise or shopping cart stolen is or exceeds \$500 but
 930 is less than \$1,500;
- 931 (ii)(A) the retail value of merchandise or shopping cart is less than \$500;
- 932 (B) the theft occurs in a retail mercantile establishment or premises of a retail
 933 mercantile establishment where the offender has committed any theft within
 934 the past five years; and
- 935 (C) the offender has received written notice from the merchant prohibiting the
 936 offender from entering the retail mercantile establishment or premises of a
 937 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 938 (iii) the actor has been twice before convicted of any of the offenses listed in
 939 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~] (D), if each prior offense was
 940 committed within 10 years before the date of the current conviction or the date of
 941 the offense upon which the current conviction is based; or
- 942 (d) a class B misdemeanor if the retail value of the merchandise or shopping cart stolen
 943 is less than \$500 and the theft is not an offense under Subsection (3)(c).

944 Section 13. Section **76-6-608** is amended to read:

945 **76-6-608 . Theft detection shielding devices prohibited.**

- 946 (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.
- 947 (2) An actor commits the unlawful shielding of a theft detection device if the actor
 948 knowingly:
- 949 (a) makes or possesses any container or device used for, intended for use for, or

- 950 represented as having the purpose of shielding merchandise from any electronic or
951 magnetic theft alarm sensor, with the intent to commit a theft of merchandise;
- 952 (b) sells, offers to sell, advertises, gives, transports, or otherwise transfers to another any
953 container or device intended for use for or represented as having the purpose of
954 shielding merchandise from any electronic or magnetic theft alarm sensor;
- 955 (c) possesses any tool or instrument designed to remove any theft detection device from
956 any merchandise, with the intent to use the tool or instrument to remove any theft
957 detection device from any merchandise without the permission of the merchant or the
958 person owning or in possession of the merchandise; or
- 959 (d) intentionally removes a theft detection device from merchandise prior to purchase
960 and without the permission of the merchant.

961 (3)(a) A violation of Subsection (2)(a), (b), or (c) is a class A misdemeanor.

962 (b) A violation of Subsection (2)(d) is a:

- 963 (i) class B misdemeanor if the retail value of the merchandise from which the theft
964 detection device is removed is less than \$500; or
- 965 (ii) class A misdemeanor if the retail value of the merchandise from which the theft
966 detection device is removed is or exceeds \$500.

967 (4) A violation of Subsection (2) is a separate offense from any offense listed in Part 4,
968 Theft, or Part 6, Retail Theft.

969 (5) Criminal prosecutions under this section do not affect any person's right of civil action
970 for redress for damages suffered as a result of any violation of this section.

971 Section 14. Section **76-9-802** is amended to read:

972 **76-9-802 . Definitions.**

973 As used in this part:

- 974 (1) "Criminal street gang" means an organization, association in fact, or group of three or
975 more [~~persons~~] individuals, whether operated formally or informally:
- 976 (a) that is currently in operation;
- 977 (b) that has as one of its primary activities the commission of [~~one or more predicate~~
978 gang crimes] a criminal offense;
- 979 (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and
- 980 (d) whose members, acting individually or in concert with other members, engage in or
981 have engaged in a pattern of criminal gang activity.
- 982 (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of
983 harm for the purpose of causing an individual to act or refrain from acting.

- 984 (3) "Minor" means ~~[a person]~~ an individual younger than 18 years old.
- 985 (4) "Pattern of criminal gang activity" means:
- 986 (a) committing, attempting to commit, conspiring to commit, or soliciting the
- 987 commission of two or more ~~[predicate gang crimes]~~ criminal offenses within five
- 988 years;
- 989 (b) the ~~[predicate gang crimes]~~ criminal offenses are:
- 990 (i) committed by two or more ~~[persons]~~ individuals; or
- 991 (ii) committed by an individual at the direction of, or in association with a criminal
- 992 street gang; and
- 993 (c) the criminal ~~[activity was]~~ offenses were committed with the specific intent to
- 994 promote, further, or assist in any criminal conduct by members of the criminal street
- 995 gang.
- 996 ~~[(5)(a) "Predicate gang crime" means any of the following offenses:]~~
- 997 ~~[(i) Title 41, Chapter 1a, Motor Vehicle Act:]~~
- 998 ~~[(A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification~~
- 999 ~~number;]~~
- 1000 ~~[(B) Section 41-1a-1315, regarding false evidence of title and registration;]~~
- 1001 ~~[(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;]~~
- 1002 ~~[(D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an~~
- 1003 ~~identification number; or]~~
- 1004 ~~[(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;]~~
- 1005 ~~[(ii) any criminal violation of the following provisions:]~~
- 1006 ~~[(A) Title 58, Chapter 37, Utah Controlled Substances Act;]~~
- 1007 ~~[(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;]~~
- 1008 ~~[(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or]~~
- 1009 ~~[(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;]~~
- 1010 ~~[(iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;]~~
- 1011 ~~[(iv) Title 76, Chapter 5, Part 2, Criminal Homicide;]~~
- 1012 ~~[(v) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;]~~
- 1013 ~~[(vi) a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;]~~
- 1014 ~~[(vii) Title 76, Chapter 6, Part 1, Property Destruction;]~~
- 1015 ~~[(viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;]~~
- 1016 ~~[(ix) Title 76, Chapter 6, Part 3, Robbery;]~~
- 1017 ~~[(x) a felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76, Chapter 6,~~

1018 Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409,
 1019 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and
 1020 76-6-410.5;]

1021 [(xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507,
 1022 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516,
 1023 76-6-517, 76-6-518, and 76-6-520;]

1024 [(xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;]

1025 [(xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections
 1026 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;]

1027 [(xiv) tampering with a witness under Section 76-8-508;]

1028 [(xv) retaliation against a witness, victim, or informant under Section 76-8-509.3;]

1029 [(xvi) receiving or soliciting a bribe as a witness under Section 76-8-508.7;]

1030 [(xvii) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;]

1031 [(xviii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the
 1032 violation occurs at an official meeting;]

1033 [(xix) Title 76, Chapter 10, Part 3, Explosives;]

1034 [(xx) Title 76, Chapter 10, Part 5, Weapons;]

1035 [(xxi) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;]

1036 [(xxii) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;]

1037 [(xxiii) communications fraud under Section 76-10-1801;]

1038 [(xxiv) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction
 1039 Reporting Act; or]

1040 [(xxv) burglary of a research facility under Section 76-10-2002.]

1041 [(b) "Predicate gang crime" also includes:]

1042 [(i) any state or federal criminal offense that by its nature involves a substantial risk that
 1043 physical force may be used against another in the course of committing the offense; and]

1044 [(ii) any felony violation of a criminal statute of any other state, the United States, or any
 1045 district, possession, or territory of the United States which would constitute a violation
 1046 of any offense in Subsection (4)(a) if committed in this state.]

1047 Section 15. Section **76-9-803** is amended to read:

1048 **76-9-803 . Soliciting, recruiting, enticing, or intimidating a minor to join a**
 1049 **criminal street gang.**

1050 [(1) It is a class B misdemeanor to:]

1051 [(a) solicit, recruit, entice, or intimidate a minor to join a criminal street gang, whether or

- 1052 not the minor actually joins the criminal street gang;]
- 1053 [(b) conspire to commit any act under Subsection (1)(a) with the intent to cause a minor to
- 1054 join a criminal street gang; or]
- 1055 [(c) use intimidation to prevent or attempt to prevent a minor from leaving a criminal street
- 1056 gang or ending the minor's affiliation with a criminal street gang.]
- 1057 [(2) It is a class A misdemeanor for any person who is a member of or actively involved
- 1058 with a criminal street gang to:]
- 1059 [(a) intimidate or otherwise cause a minor to commit or attempt to commit any
- 1060 misdemeanor criminal offense; or]
- 1061 [(b) commit a violation of Subsection (1)(a):]
- 1062 [(i) more than once;]
- 1063 [(ii) regarding the same minor; and]
- 1064 [(iii) within a period of 180 days.]
- 1065 [(3) Prosecution for any offense under this section does not prohibit prosecution for any
- 1066 other criminal offense.]
- 1067 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1068 (2) An actor commits soliciting, recruiting, enticing, or intimidating a minor to join a
- 1069 criminal street gang if the actor:
- 1070 (a) solicits, recruits, entices, or intimidates a minor to join a criminal street gang; or
- 1071 (b) conspires to commit an act described in Subsection (2)(a) with the intent to cause a
- 1072 minor to join a criminal street gang.
- 1073 (3) A violation of Subsection (2) is:
- 1074 (a) a class A misdemeanor if the actor is a minor; or
- 1075 (b) a third degree felony if the actor is 18 years old or older.
- 1076 (4) It is not a defense to a prosecution under this section that the minor did not join the
- 1077 criminal street gang.
- 1078 Section 16. Section **76-9-803.1** is enacted to read:
- 1079 **76-9-803.1 . Aggravated soliciting, recruiting, enticing, or intimidating a minor to**
- 1080 **join a criminal street gang.**
- 1081 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1082 (2) An actor commits aggravated soliciting, recruiting, enticing, or intimidating a minor to
- 1083 join a criminal street gang if, in the course of committing an offense under Section
- 1084 76-9-803, the offense:
- 1085 (a) involves the use of a dangerous weapon;

- 1086 (b) results in serious bodily injury to any individual; or
1087 (c) results in serious emotional distress to any individual.
1088 (3) A violation of Subsection (2) is:
1089 (a) a third degree felony if the actor is a minor; or
1090 (b) a second degree felony if the actor is 18 years old or older.
1091 (4) It is not a defense to a prosecution under this section that the minor did not join the
1092 criminal street gang.

1093 Section 17. Section **76-9-803.2** is enacted to read:

1094 **76-9-803.2 . Intimidating a minor to remain in a criminal street gang.**

- 1095 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
1096 (2) An actor commits intimidating a minor to remain in a criminal street gang if the actor
1097 intimidates a minor to prevent the minor from leaving a criminal street gang or ending
1098 the minor's affiliation with a criminal street gang.
1099 (3) A violation of Subsection (2) is:
1100 (a) a class A misdemeanor if the actor is a minor; or
1101 (b) a third degree felony if the actor is 18 years old or older.
1102 (4) It is not a defense to a prosecution under this section that the minor described in
1103 Subsection (2) left or ended the minor's affiliation with a criminal street gang.

1104 Section 18. Section **76-9-803.3** is enacted to read:

1105 **76-9-803.3 . Aggravated intimidating a minor to remain in a criminal street gang.**

- 1106 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
1107 (2) An actor commits aggravated intimidating a minor to remain in a criminal street gang if,
1108 in the course of committing an offense under Section 76-9-803.2, the offense:
1109 (a) involves the use of a dangerous weapon;
1110 (b) results in serious bodily injury to any individual; or
1111 (c) results in serious emotional distress to any individual.
1112 (3) A violation of Subsection (2) is:
1113 (a) a third degree felony if the actor is a minor; or
1114 (b) a second degree felony if the actor is 18 years old or older.
1115 (4) It is not a defense to a prosecution under this section that the minor described in
1116 Subsection (2) left or ended the minor's affiliation with a criminal street gang.

1117 Section 19. Section **76-10-1602** is amended to read:

1118 **76-10-1602 . Definitions.**

1119 As used in this part:

- 1120 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
1121 business trust, association, or other legal entity, and any union or group of individuals
1122 associated in fact although not a legal entity, and includes illicit as well as licit entities.
- 1123 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
1124 commission of at least three episodes of unlawful activity, which episodes are not
1125 isolated, but have the same or similar purposes, results, participants, victims, or methods
1126 of commission, or otherwise are interrelated by distinguishing characteristics. Taken
1127 together, the episodes shall demonstrate continuing unlawful conduct and be related
1128 either to each other or to the enterprise. At least one of the episodes comprising a
1129 pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act
1130 constituting part of a pattern of unlawful activity as defined by this part shall have
1131 occurred within five years of the commission of the next preceding act alleged as part of
1132 the pattern.
- 1133 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
1134 interest in property, including state, county, and local governmental entities.
- 1135 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command,
1136 encourage, or intentionally aid another person to engage in conduct which would
1137 constitute any offense described by the following crimes or categories of crimes, or to
1138 attempt or conspire to engage in an act which would constitute any of those offenses,
1139 regardless of whether the act is in fact charged or indicted by any authority or is
1140 classified as a misdemeanor or a felony:
- 1141 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized
1142 Recording Practices Act;
 - 1143 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality
1144 Code, Sections 19-1-101 through 19-7-109;
 - 1145 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose
1146 of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or
1147 Section 23A-5-311;
 - 1148 (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B,
1149 Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;
 - 1150 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal
1151 Offenses and Procedure Act;
 - 1152 (f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah
1153 Uniform Land Sales Practices Act;

- 1154 (g) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah
1155 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances
1156 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58,
1157 Chapter 37d, Clandestine Drug Lab Act;
- 1158 (h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform
1159 Securities Act;
- 1160 (i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah
1161 Procurement Code;
- 1162 (j) assault under Section 76-5-102;
- 1163 (k) aggravated assault under Section 76-5-103;
- 1164 (l) a threat of terrorism under Section 76-5-107.3;
- 1165 (m) a criminal homicide offense under Section 76-5-201;
- 1166 (n) kidnapping under Section 76-5-301;
- 1167 (o) aggravated kidnapping under Section 76-5-302;
- 1168 (p) human trafficking for labor under Section 76-5-308;
- 1169 (q) human trafficking for sexual exploitation under Section 76-5-308.1;
- 1170 (r) human smuggling under Section 76-5-308.3;
- 1171 (s) human trafficking of a child under Section 76-5-308.5;
- 1172 (t) benefiting from trafficking and human smuggling under Section 76-5-309;
- 1173 (u) aggravated human trafficking under Section 76-5-310;
- 1174 (v) sexual exploitation of a minor under Section 76-5b-201;
- 1175 (w) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 1176 (x) arson under Section 76-6-102;
- 1177 (y) aggravated arson under Section 76-6-103;
- 1178 (z) causing a catastrophe under Section 76-6-105;
- 1179 (aa) burglary under Section 76-6-202;
- 1180 (bb) aggravated burglary under Section 76-6-203;
- 1181 (cc) burglary of a vehicle under Section 76-6-204;
- 1182 (dd) manufacture or possession of an instrument for burglary or theft under Section
1183 76-6-205;
- 1184 (ee) robbery under Section 76-6-301;
- 1185 (ff) aggravated robbery under Section 76-6-302;
- 1186 (gg) theft under Section 76-6-404;
- 1187 (hh) theft by deception under Section 76-6-405;

- 1188 (ii) theft by extortion under Section 76-6-406;
- 1189 (jj) receiving stolen property under Section 76-6-408;
- 1190 (kk) theft of services under Section 76-6-409;
- 1191 (ll) forgery under Section 76-6-501;
- 1192 (mm) unlawful use of financial transaction card under Section 76-6-506.2;
- 1193 (nn) unlawful acquisition, possession, or transfer of financial transaction card under
- 1194 Section 76-6-506.3;
- 1195 (oo) financial transaction card offenses under Section 76-6-506.6;
- 1196 (pp) deceptive business practices under Section 76-6-507;
- 1197 (qq) bribery or receiving bribe by person in the business of selection, appraisal, or
- 1198 criticism of goods under Section 76-6-508;
- 1199 (rr) bribery of a labor official under Section 76-6-509;
- 1200 (ss) defrauding creditors under Section 76-6-511;
- 1201 (tt) acceptance of deposit by insolvent financial institution under Section 76-6-512;
- 1202 (uu) unlawful dealing with property by fiduciary under Section 76-6-513;
- 1203 (vv) bribery or threat to influence contest under Section 76-6-514;
- 1204 (ww) making a false credit report under Section 76-6-517;
- 1205 (xx) criminal simulation under Section 76-6-518;
- 1206 (yy) criminal usury under Section 76-6-520;
- 1207 (zz) insurance fraud under Section 76-6-521;
- 1208 (aaa) retail theft under Section 76-6-602;
- 1209 (bbb) computer crimes under Section 76-6-703;
- 1210 (ccc) identity fraud under Section 76-6-1102;
- 1211 (ddd) mortgage fraud under Section 76-6-1203;
- 1212 (eee) sale of a child under Section 76-7-203;
- 1213 (fff) bribery to influence official or political actions under Section 76-8-103;
- 1214 (ggg) threat to influence official or political action under Section 76-8-104;
- 1215 (hhh) receiving bribe or bribery by public servant under Section 76-8-105;
- 1216 (iii) receiving bribe for endorsement of person as a public servant under Section
- 1217 76-8-106;
- 1218 (jjj) bribery for endorsement of person as public servant under Section 76-8-106.1;
- 1219 (kkk) official misconduct based on unauthorized act or failure of duty under Section
- 1220 76-8-201;
- 1221 (lll) official misconduct concerning inside information under Section 76-8-202;

1222 (mmm) obstruction of justice in a criminal investigation or proceeding under Section
1223 76-8-306;

1224 (nnn) acceptance of bribe or bribery to prevent criminal prosecution under Section
1225 76-8-308;

1226 (ooo) harboring or concealing offender who has escaped from official custody under
1227 Section 76-8-309.2;

1228 (ppp) making a false or inconsistent material statement under Section 76-8-502;

1229 (qqq) making a false or inconsistent statement under Section 76-8-503;

1230 (rrr) making a written false statement under Section 76-8-504;

1231 (sss) tampering with a witness under Section 76-8-508;

1232 (ttt) retaliation against a witness, victim, or informant under Section 76-8-508.3;

1233 (uuu) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

1234 (vvv) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;

1235 (www) tampering with evidence under Section 76-8-510.5;

1236 (xxx) falsification or alteration of a government record under Section 76-8-511, if the
1237 record is a record described in Title 20A, Election Code, or Title 36, Chapter 11,
1238 Lobbyist Disclosure and Regulation Act;

1239 (yyy) public assistance fraud by an applicant for public assistance under Section
1240 76-8-1203.1;

1241 (zzz) public assistance fraud by a recipient of public assistance under Section
1242 76-8-1203.3;

1243 (aaaa) public assistance fraud by a provider under Section 76-8-1203.5;

1244 (bbbb) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;

1245 (cccc) false statement to obtain or increase unemployment compensation under Section
1246 76-8-1301;

1247 (dddd) false statement to prevent or reduce unemployment compensation or liability
1248 under Section 76-8-1302;

1249 (eeee) unlawful failure to comply with Employment Security Act requirements under
1250 Section 76-8-1303;

1251 (ffff) unlawful use or disclosure of employment information under Section 76-8-1304;

1252 (gggg) intentionally or knowingly causing one animal to fight with another under
1253 Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

1254 (hhhh) soliciting, recruiting, enticing, or intimidating a minor to join a criminal street
1255 gang under Section 76-9-803;

1256 (iii) aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal
1257 street gang under Section 76-9-803.1;
1258 (jjj) intimidating a minor to remain in a criminal street gang under Section 76-9-803.2;
1259 (kkkk) aggravated intimidating a minor to remain in a criminal street gang under Section
1260 76-9-803.3;
1261 [~~hhhh~~] (llll) possession, use, or removal of explosives, chemical, or incendiary devices
1262 or parts under Section 76-10-306;
1263 [~~iiii~~] (mmmm) delivery to common carrier, mailing, or placement on premises of an
1264 incendiary device under Section 76-10-307;
1265 [~~jjjj~~] (nnnn) possession of a deadly weapon with intent to assault under Section
1266 76-10-507;
1267 [~~kkkk~~] (oooo) unlawful marking of pistol or revolver under Section 76-10-521;
1268 [~~HHH~~] (pppp) alteration of number or mark on pistol or revolver under Section 76-10-522;
1269 [~~mmmm~~] (qqqq) forging or counterfeiting trademarks, trade name, or trade device
1270 under Section 76-10-1002;
1271 [~~nnnn~~] (rrrr) selling goods under counterfeited trademark, trade name, or trade devices
1272 under Section 76-10-1003;
1273 [~~oooo~~] (ssss) sales in containers bearing registered trademark of substituted articles
1274 under Section 76-10-1004;
1275 [~~pppp~~] (tttt) selling or dealing with article bearing registered trademark or service mark
1276 with intent to defraud under Section 76-10-1006;
1277 [~~qqqq~~] (uuuu) gambling under Section 76-10-1102;
1278 [~~rrrr~~] (vvvv) gambling fraud under Section 76-10-1103;
1279 [~~ssss~~] (wwww) gambling promotion under Section 76-10-1104;
1280 [~~tttt~~] (xxxx) possessing a gambling device or record under Section 76-10-1105;
1281 [~~uuuu~~] (yyyy) confidence game under Section 76-10-1109;
1282 [~~vvvv~~] (zzzz) distributing pornographic material under Section 76-10-1204;
1283 [~~wwww~~] (aaaa) inducing acceptance of pornographic material under Section
1284 76-10-1205;
1285 [~~xxxx~~] (bbbb) dealing in harmful material to a minor under Section 76-10-1206;
1286 [~~yyyy~~] (cccc) distribution of pornographic films under Section 76-10-1222;
1287 [~~zzzz~~] (dddd) indecent public displays under Section 76-10-1228;
1288 [~~aaaa~~] (eeee) prostitution under Section 76-10-1302;
1289 [~~bbbb~~] (ffff) aiding prostitution under Section 76-10-1304;

- 1290 [(eeee)] (ggggg) exploiting prostitution under Section 76-10-1305;
- 1291 [(dddd)] (hhhhh) aggravated exploitation of prostitution under Section 76-10-1306;
- 1292 [(eeee)] (iiii) communications fraud under Section 76-10-1801;
- 1293 [(ffff)] (jjjj) an act prohibited by the criminal provisions of Part 19, Money Laundering
1294 and Currency Transaction Reporting Act;
- 1295 [(ggggg)] (kkkkk) vehicle compartment for contraband under Section 76-10-2801;
- 1296 [(hhhhh)] (llll) an act prohibited by the criminal provisions of the laws governing
1297 taxation in this state; or
- 1298 [(iiii)] (mmmmm) an act illegal under the laws of the United States and enumerated in
1299 18 U.S.C. Sec. 1961(1)(B), (C), and (D).
- 1300 Section 20. Section **78B-6-1101** is amended to read:
- 1301 **78B-6-1101 . Definitions -- Nuisance -- Right of action -- Agriculture operations.**
- 1302 (1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an
1303 obstruction to the free use of property, so as to interfere with the comfortable enjoyment
1304 of life or property. A nuisance may be the subject of an action.
- 1305 (2) A nuisance may include the following:
- 1306 (a) drug houses and drug dealing as provided in Section 78B-6-1107;
- 1307 (b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;
- 1308 (c) criminal activity committed in concert with [~~three~~] one or more [~~persons~~] individuals
1309 as provided in Section 76-3-203.1;
- 1310 (d) criminal activity committed for the benefit of, at the direction of, or in association
1311 with any criminal street gang as defined in Section 76-9-802;
- 1312 (e) criminal activity committed to gain recognition, acceptance, membership, or
1313 increased status with a criminal street gang as defined in Section 76-9-802;
- 1314 (f) party houses that frequently create conditions defined in Subsection (1); and
- 1315 (g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.
- 1316 (3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a
1317 person rents, leases, or owns, from another residential or commercial unit and the smoke:
- 1318 (a) drifts in more than once in each of two or more consecutive seven-day periods; and
- 1319 (b) creates any of the conditions under Subsection (1).
- 1320 (4) Subsection (3) does not apply to:
- 1321 (a) a residential rental unit available for temporary rental, such as for a vacation, or
1322 available for only 30 or fewer days at a time; or
- 1323 (b) a hotel or motel room.

- 1324 (5) Subsection (3) does not apply to a unit that is part of a timeshare development, as
1325 defined in Section 57-19-2, or subject to a timeshare interest as defined in Section
1326 57-19-2.
- 1327 (6) An action may be brought by a person whose property is injuriously affected, or whose
1328 personal enjoyment is lessened by the nuisance.
- 1329 (7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter
1330 44, Agricultural Operations Nuisances Act.
- 1331 (8) "Critical infrastructure materials operations" means the same as that term is defined in
1332 Section 10-9a-901.
- 1333 (9) "Manufacturing facility" means a factory, plant, or other facility including its
1334 appurtenances, where the form of raw materials, processed materials, commodities, or
1335 other physical objects is converted or otherwise changed into other materials,
1336 commodities, or physical objects or where such materials, commodities, or physical
1337 objects are combined to form a new material, commodity, or physical object.
- 1338 Section 21. Section **78B-6-1107** is amended to read:
- 1339 **78B-6-1107 . Nuisance -- Drug houses and drug dealing -- Gambling -- Group**
1340 **criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.**
- 1341 (1) Every building or place is a nuisance where:
- 1342 (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or
1343 acquisition occurs of any controlled substance, precursor, or analog specified in Title
1344 58, Chapter 37, Utah Controlled Substances Act;
- 1345 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title
1346 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as
1347 defined in Subsection 78B-6-1101(1);
- 1348 (c) criminal activity is committed in concert with [~~three~~] one or more [~~persons~~] individuals
1349 as provided in Section 76-3-203.1;
- 1350 (d) criminal activity is committed for the benefit of, at the direction of, or in association
1351 with any criminal street gang as defined in Section 76-9-802;
- 1352 (e) criminal activity is committed to gain recognition, acceptance, membership, or
1353 increased status with a criminal street gang as defined in Section 76-9-802;
- 1354 (f) parties occur frequently which create the conditions of a nuisance as defined in
1355 Subsection 78B-6-1101(1);
- 1356 (g) prostitution or promotion of prostitution is regularly carried on by one or more
1357 persons as provided in Title 76, Chapter 10, Part 13, Prostitution; and

- 1358 (h) a violation of Title 76, Chapter 10, Part 5, Weapons, occurs on the premises.
- 1359 (2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the
- 1360 defendant is lawfully entitled to possession of a controlled substance.
- 1361 (3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the
- 1362 nuisance as defined in Subsection (1).
- 1363 Section 22. **Effective date.**
- 1364 This bill takes effect on May 7, 2025.