

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 enhancements.

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

Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-406, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-407, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-408, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-409, as last amended by Laws of Utah 2023, Chapter 111
76-6-409.3, as last amended by Laws of Utah 2023, Chapter 111
76-6-410, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-602, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
Coordination Clause, Laws of Utah 2023, Chapter 407
76-6-608, as last amended by Laws of Utah 2023, Chapter 111
76-9-802, as last amended by Laws of Utah 2024, Chapter 96
76-9-803, as enacted by Laws of Utah 2008, Chapter 15
76-10-1602, as last amended by Laws of Utah 2024, Chapter 96
78B-6-1101, as last amended by Laws of Utah 2021, Chapter 207
78B-6-1107, as last amended by Laws of Utah 2021, Chapter 207

ENACTS:

76-9-803.1, Utah Code Annotated 1953
76-9-803.2, Utah Code Annotated 1953
76-9-803.3, Utah Code Annotated 1953

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

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

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

(1) As used in this section:

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

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

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

(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]~~ two 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]~~ two 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 may be
 115 charged as follows:
 116 ~~[(i)]~~ (a) for a class B misdemeanor, as a class A misdemeanor;
 117 ~~[(ii)]~~ (b) for a class A misdemeanor, as a third degree felony;
 118 ~~[(iii)]~~ (c) for a third degree felony, as a second degree felony; and
 119 ~~[(iv)]~~ (d) for a second degree felony, as a first degree felony.
 120 ~~[(b)]~~ (5) The ~~[following offenses are subject to Subsection (6)(a)]~~ offenses referred to in
 121 Subsection (2) are:
 122 (a) criminal solicitation of a minor as described in Section 76-4-205;
 123 ~~[(i)]~~ (b) ~~[assault and related offenses under]~~ an offense described in Chapter 5, Part 1,
 124 Assault and Related Offenses;
 125 ~~[(ii)]~~ (c) ~~[any criminal homicide offense under]~~ an offense described in Chapter 5, Part 2,
 126 Criminal Homicide;
 127 ~~[(iii)]~~ (d) ~~[kidnapping and related offenses under]~~ an offense described in Chapter 5, Part
 128 3, Kidnapping, Trafficking, and Smuggling;
 129 ~~[(iv)]~~ (e) ~~[any felony sexual offense under]~~ a felony offense described in Chapter 5, Part
 130 4, Sexual Offenses;
 131 ~~[(v)]~~ sexual exploitation of a minor as defined in Section 76-5b-201;
 132 ~~[(vi)]~~ aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;
 133 (f) a felony offense described in Chapter 5b, Part 2, Sexual Exploitation;

- (g) an offense described in Chapter 6, Part 1, Property Destruction;
- ~~[(vii)]~~ (h) robbery as described in Section 76-6-202;
- (i) ~~[-and-]~~ aggravated robbery [under Chapter 6, Part 3, Robbery] as described in Section 76-6-203;
- (j) burglary as described in Subsection 76-6-202(3)(b);
- (k) aggravated burglary as described in Section 76-6-203;
- (l) an offense described in Chapter 6, Part 4, Theft;
- (m) a felony offense described in Chapter 6, Part 5, Fraud;
- (n) an offense described in Chapter 6, Part 6, Retail Theft;
- (o) an offense described in Chapter 6, Part 11, Identity Fraud Act;
- (p) an offense described in Chapter 8, Part 5, Falsification in Official Matters;
- (q) a felony offense described in Chapter 10, Part 3, Explosives;
- (r) an offense described in Chapter 10, Part 4, Weapons of Mass Destruction;
- (s) an offense described in Chapter 10, Part 5, Weapons;[-and]
- (t) gambling fraud as described in Section 76-10-1103;
- (u) possessing a gambling device or record as described in Section 76-10-1105;
- (v) fringe gaming devices as described in Section 76-10-1110;
- (w) a felony violation of aiding prostitution as described in Section 76-10-1304;
- (x) exploiting prostitution as described in Section 76-10-1305;
- ~~[(viii)]~~ (y) aggravated exploitation of prostitution under Section 76-10-1306[-] ;
- (z) an offense described in Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- (aa) communications fraud as described in Section 76-10-1801;
- (bb) an offense described in Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act;
- (cc) burglary of a research facility as described in Section 76-10-2002; and
- (dd) transporting or harboring aliens as described in Section 76-10-2901.

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

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

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

76-6-404 . Theft -- Elements.

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits theft if the actor obtains or exercises unauthorized control over another person's property with a purpose to deprive the person of the person's property.
- (3) A violation of Subsection (2) is:
 - (a) a second degree felony if the:
 - (i) value of the property is or exceeds \$5,000;
 - (ii) property stolen is a firearm or an operable motor vehicle; or
 - (iii) property is stolen from the person of another;
 - (b) a third degree felony if:
 - (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
 - (ii) the property is:
 - (A) a catalytic converter as defined under Section 76-6-1402; or
 - (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;
 - (iii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
 - (A) any theft, any robbery, or any burglary with intent to commit theft;
 - (B) any offense under Part 5, Fraud;[-or]
 - (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
 - (D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C);
- (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
- (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
- (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or
- (v) the actor has been previously convicted of a felony violation of any of the

- 202 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C);~~] (D), if the
 203 prior offense was committed within 10 years before the date of the current
 204 conviction or the date of the offense upon which the current conviction is based;
- 205 (c) a class A misdemeanor if:
- 206 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 207 (ii)(A) the value of property is less than \$500;
- 208 (B) the theft occurs on a property where the offender has committed any theft
 209 within the past five years; and
- 210 (C) the offender has received written notice from the merchant prohibiting the
 211 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 212 (iii) the actor has been twice before convicted of any of the offenses listed in
 213 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C);~~] (D), if each prior offense was
 214 committed within 10 years before the date of the current conviction or the date of
 215 the offense upon which the current conviction is based; or
- 216 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 217 theft is not an offense under Subsection (3)(c).

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

219 **76-6-404.5 . Unauthorized possession of property.**

- 220 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 221 (2) An actor commits unauthorized possession of property if the actor obtains or exercises
 222 unauthorized control over another person's property, without the consent of the
 223 property's owner or legal custodian, and with the intent to temporarily appropriate,
 224 possess, or use the property or to temporarily deprive the property's owner or legal
 225 custodian of possession of the property.
- 226 (3) A violation of Subsection (2) is:
- 227 (a) a third degree felony if:
- 228 (i) the value of the property is or exceeds \$5,000;
- 229 (ii) the property is a firearm or an operable motor vehicle; or
- 230 (iii) the property is taken from the person of another;
- 231 (b) a class A misdemeanor if:
- 232 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 233 (ii) the property is:
- 234 (A) a catalytic converter as defined under Section 76-6-1402; or
- 235 (B) 25 pounds or more of a suspect metal item is defined under Section 76-6-1402

- 236 if the value is less than \$5,000 and the suspect metal is made of or contains
237 aluminum or copper and is not a lead battery;
- 238 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
239 convicted of any of the following offenses, if each prior offense was committed
240 within 10 years before the date of the current conviction or the date of the offense
241 upon which the current conviction is based and at least one of those convictions is
242 for a class A misdemeanor:
- 243 (A) any theft, any robbery, or any burglary with intent to commit theft;
244 (B) any offense under Part 5, Fraud;[-or]
245 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
246 (D) any offense in another jurisdiction, including a state, federal, or military court,
247 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
248 (B), or (C);
- 249 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
250 (B) the unauthorized possession of property occurs on a property where the
251 offender has committed any theft within the past five years; and
252 (C) the offender has received written notice from the merchant prohibiting the
253 offender from entering the property pursuant to Subsection 78B-3-108(4); or
254 (v) the actor has been previously convicted of a felony violation of any of the
255 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
256 prior offense was committed within 10 years before the date of the current
257 conviction or the date of the offense upon which the current conviction is based;
- 258 (c) a class B misdemeanor if:
- 259 (i) the value of the property is or exceeds \$500 but is less than \$1,500;
260 (ii)(A) the value of property is less than \$500;
261 (B) the unauthorized possession of property occurs on a property where the
262 offender has committed any theft within the past five years; and
263 (C) the offender has received written notice from the merchant prohibiting the
264 offender from entering the property pursuant to Subsection 78B-3-108(4); or
265 (iii) the actor has been twice before convicted of any of the offenses listed in
266 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
267 committed within 10 years before the date of the current conviction or the date of
268 the offense upon which the current conviction is based; or
269 (d) a class C misdemeanor if the value of the property is less than \$500 and the

unauthorized possession of property is not an offense under Subsection (3)(c).

(4) Unauthorized possession of property is a lesser included offense of the offense of theft under Section 76-6-404.

(5) The consent of the owner or legal custodian of the property to the property's control by the actor is not presumed or implied because of the owner's or legal custodian's consent on a previous occasion to the control of the property by any person.

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

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

(1)(a) As used in this section, "motor vehicle fuel" means any combustible gas, liquid, matter, or substance that is used in an internal combustion engine for the generation of power.

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

(2) An actor commits theft of motor vehicle fuel if the actor:

(a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for retail sale when motor fuel has been dispensed into:

(i) the fuel tank of the motor vehicle; or

(ii) any other container that is then removed from the premises by means of the motor vehicle; and

(b) commits the act under Subsection (2)(a) with the intent to deprive the owner or operator of the premises of the motor vehicle fuel without making full payment for the fuel.

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

(a) a second degree felony if the value of the motor vehicle fuel is or exceeds \$5,000;

(b) a third degree felony if:

(i) the value of the motor vehicle fuel is or exceeds \$1,500 but is less than \$5,000;~~[-or]~~

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

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

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

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

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

- 304 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
305 (B), or (C);
- 306 (iii)(A) the value of the motor vehicle fuel is or exceeds \$500 but is less than
307 \$1,500;
- 308 (B) the theft occurs on a property where the offender has committed any theft
309 within the past five years; and
- 310 (C) the offender has received written notice from the merchant prohibiting the
311 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 312 (iv) the actor has been previously convicted of a felony violation of any of the
313 offenses listed in Subsections (3)(b)(ii)(A) through ~~[(3)(b)(ii)(C),]~~ (D), if the prior
314 offense was committed within 10 years before the date of the current conviction or
315 the date of the offense upon which the current conviction is based;
- 316 (c) a class A misdemeanor if:
- 317 (i) the value of the motor vehicle fuel is or exceeds \$500 but is less than \$1,500;
- 318 (ii)(A) the value of the motor vehicle fuel is less than \$500;
- 319 (B) the theft occurs on a property where the offender has committed any theft
320 within the past five years; and
- 321 (C) the offender has received written notice from the merchant prohibiting the
322 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 323 (iii) the actor has been twice before convicted of any of the offenses listed in
324 Subsections (3)(b)(ii)(A) through ~~[(3)(b)(ii)(C),]~~ (D), if each prior offense was
325 committed within 10 years before the date of the current conviction or the date of
326 the offense upon which the current conviction is based; or
- 327 (d) a class B misdemeanor if the value of the motor vehicle fuel is less than \$500 and the
328 theft is not an offense under Subsection (3)(c).
- 329 (4)(a) In addition to the penalties described in Subsection (3), the sentencing court may
330 order the suspension of the driver license of an actor convicted of theft of motor
331 vehicle fuel.
- 332 (b) The suspension described in Subsection (4)(a) may not be for more than 90 days as
333 provided in Section 53-3-220.
- 334 Section 5. Section **76-6-405** is amended to read:
- 335 **76-6-405 . Theft by deception.**
- 336 (1)(a) As used in this section, "puffing" means an exaggerated commendation of wares
337 or worth in a communication addressed to an individual, group, or the public.

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

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

(i) by deception; and

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

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

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

(a) a second degree felony if the:

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

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

(b) a third degree felony if:

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

(ii) the property:

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

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

if the value is less than \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;

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

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

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

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

(D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C);

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

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

- 372 (v) the actor has been previously convicted of a felony violation of any of the
373 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if the
374 prior offense was committed within 10 years before the date of the current
375 conviction or the date of the offense upon which the current conviction is based;
- 376 (c) a class A misdemeanor if:
- 377 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 378 (ii)(A) the value of property is less than \$500;
- 379 (B) the theft occurs on a property where the offender has committed any theft
380 within the past five years; and
- 381 (C) the offender has received written notice from the merchant prohibiting the
382 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 383 (iii) the actor has been twice before convicted of any of the offenses listed in
384 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if each prior offense was
385 committed within 10 years before the date of the current conviction or the date of
386 the offense upon which the current conviction is based; or
- 387 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
388 theft is not an offense under Subsection (3)(c).
- 389 (4) Theft by deception does not occur when there is only:
- 390 (a) falsity as to matters having no pecuniary significance; or
- 391 (b) puffing by statements unlikely to deceive an ordinary person in the group addressed.
- 392 Section 6. Section **76-6-406** is amended to read:
- 393 **76-6-406 . Theft by extortion.**
- 394 (1)(a) As used in this section, extortion occurs when an actor threatens to:
- 395 (i) cause physical harm in the future to the person threatened, to any other person, or
396 to property at any time;
- 397 (ii) subject the person threatened or any other person to physical confinement or
398 restraint;
- 399 (iii) engage in other conduct constituting a crime;
- 400 (iv) accuse any person of a crime or expose any person to hatred, contempt, or
401 ridicule;
- 402 (v) reveal any information sought to be concealed by the person threatened;
- 403 (vi) testify, provide information, or withhold testimony or information with respect to
404 a person's legal claim or defense;
- 405 (vii) take action as an official against anyone or anything, or withhold official action,

- 406 or cause such action or withholding;
- 407 (viii) bring about or continue a strike, boycott, or other similar collective action to
- 408 obtain property that is not demanded or received for the benefit of the group that
- 409 the actor purports to represent; or
- 410 (ix) do any other act which would not in itself substantially benefit the actor but
- 411 which would harm substantially any other person with respect to that person's
- 412 health, safety, business, calling, career, financial condition, reputation, or personal
- 413 relationships.
- 414 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 415 (2) An actor commits theft by extortion if the actor obtains or exercises control over the
- 416 property of another person by extortion and with a purpose to deprive the person of the
- 417 person's property.
- 418 (3) A violation of Subsection (2) is:
- 419 (a) a second degree felony if the:
- 420 (i) value of the property is or exceeds \$5,000;
- 421 (ii) property stolen is a firearm or an operable motor vehicle; or
- 422 (iii) property is stolen from the person of another;
- 423 (b) a third degree felony if:
- 424 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 425 (ii) the property is:
- 426 (A) a catalytic converter as defined under Section 76-6-1402; or
- 427 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 428 if the value is less than \$5,000 and the suspect metal is made of or contains
- 429 aluminum or copper and is not a lead battery;
- 430 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 431 convicted of any of the following offenses, if each prior offense was committed
- 432 within 10 years before the date of the current conviction or the date of the offense
- 433 upon which the current conviction is based and at least one of those convictions is
- 434 for a class A misdemeanor:
- 435 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 436 (B) any offense under Part 5, Fraud;~~[-or]~~
- 437 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 438 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 439 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),

- 440 (B), or (C);
- 441 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
- 442 (B) the theft occurs on a property where the offender has committed any theft
- 443 within the past five years; and
- 444 (C) the offender has received written notice from the merchant prohibiting the
- 445 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 446 (v) the actor has been previously convicted of a felony violation of any of the
- 447 offenses listed in Subsections (3)(b)(iii)(A) through ~~[(3)(b)(iii)(C),]~~ (D), if the
- 448 prior offense was committed within 10 years before the date of the current
- 449 conviction or the date of the offense upon which the current conviction is based;
- 450 (c) a class A misdemeanor if:
- 451 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 452 (ii)(A) the value of property is less than \$500;
- 453 (B) the theft occurs on a property where the offender has committed any theft
- 454 within the past five years; and
- 455 (C) the offender has received written notice from the merchant prohibiting the
- 456 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 457 (iii) the actor has been twice before convicted of any of the offenses listed in
- 458 Subsections (3)(b)(iii)(A) through ~~[(3)(b)(iii)(C),]~~ (D), if each prior offense was
- 459 committed within 10 years before the date of the current conviction or the date of
- 460 the offense upon which the current conviction is based; or
- 461 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
- 462 theft is not an offense under Subsection (3)(c).
- 463 (4)(a) A person who is adversely impacted by the conduct prohibited in Subsection (2)
- 464 may bring a civil action for equitable relief and damages.
- 465 (b) In accordance with Section 78B-2-305, a person who brings an action under
- 466 Subsection (4)(a) shall commence the action within three years after the day on
- 467 which the cause of action arises.
- 468 Section 7. Section **76-6-407** is amended to read:
- 469 **76-6-407 . Theft of lost, mislaid, or mistakenly delivered property.**
- 470 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 471 (2) An actor commits theft of lost, mislaid, or mistakenly delivered property if the actor:
- 472 (a) obtains another person's property and knows the property to have been lost or
- 473 mislaid, or to have been delivered under a mistake as to the identity of the recipient

or as to the nature or amount of the property, without taking reasonable measures to return the property to the owner; and

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

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

(a) a second degree felony if the:

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

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

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

(b) a third degree felony if:

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

(ii) the property is:

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

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

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

aluminum or copper and is not a lead battery;

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

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

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

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

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

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

(B), or (C);

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

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through [(3)(b)(iii)(C),] (D), if the

- 508 prior offense was committed within 10 years before the date of the current
509 conviction or the date of the offense upon which the current conviction is based;
- 510 (c) a class A misdemeanor if:
- 511 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 512 (ii)(A) the value of property is less than \$500;
- 513 (B) the theft occurs on a property where the offender has committed any theft
514 within the past five years; and
- 515 (C) the offender has received written notice from the merchant prohibiting the
516 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 517 (iii) the actor has been twice before convicted of any of the offenses listed in
518 Subsections (3)(b)(iii)(A) through [(3)(b)(iii)(C),] (D), if each prior offense was
519 committed within 10 years before the date of the current conviction or the date of
520 the offense upon which the current conviction is based; or
- 521 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
522 theft is not an offense under Subsection (3)(c).

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

524 **76-6-408 . Theft by receiving stolen property -- Duties of pawnbrokers,**
525 **secondhand businesses, coin dealers, and catalytic converter purchasers.**

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

- 527 (i) "Catalytic converter purchaser" means the same as that term is defined in Section
528 13-32a-102.
- 529 (ii) "Coin dealer" means the same as that term is defined in Section 13-32a-102.
- 530 (iii) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.
- 531 (iv) "Receives" means acquiring possession, control, title, or lending on the security
532 of the property.
- 533 (v) "Scrap metal processor" means the same as that term is defined in Section
534 76-6-1402.
- 535 (vi) "Secondhand actor" means:
- 536 (A) a pawnbroker;
- 537 (B) a person who has or operates a business dealing in or collecting used or
538 secondhand merchandise or personal property; or
- 539 (C) an agent, employee, or representative of a pawnbroker or person who buys,
540 receives, or obtains property.

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

- (2) An actor commits theft by receiving stolen property if the actor receives, retains, or disposes of the property of another knowing that the property is stolen, or believing that the property is probably stolen, or who conceals, sells, withholds, or aids in concealing, selling, or withholding the property from the owner, knowing or believing the property to be stolen, intending to deprive the owner of the property.
- (3) A violation of Subsection (2) is:
- (a) a second degree felony if:
 - (i) the value of the property is or exceeds \$5,000; or
 - (ii) the property is a firearm or an operable motor vehicle;
 - (b) a third degree felony if:
 - (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
 - (ii) the property is:
 - (A) a catalytic converter as defined under Section 76-6-1402; or
 - (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if the value is less the \$5,000 and the suspect metal is made of or contains aluminum or copper and is not a lead battery;
 - (iii) the value of the property is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
 - (A) any theft, any robbery, or any burglary with intent to commit theft;
 - (B) any offense under Part 5, Fraud;[-or]
 - (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
 - (D) any offense in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A), (B), or (C); or
 - (iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;
 - (c) a class A misdemeanor if:
 - (i) the value of the property is or exceeds \$500 but is less than \$1,500; or
 - (ii) the actor has been twice before convicted of any of the offenses listed in

- Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~,] (D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or
- (d) a class B misdemeanor if the value of the property is less than \$500 and the theft is not an offense under Subsection (3)(c).
- (4) Except as provided in Subsection (5), the knowledge or belief required under Subsection (2) is presumed in the case of an actor who:
- (a) is found in possession or control of other property stolen on a separate occasion; or
- (b) has received other stolen property within the year preceding the receiving offense charged.
- (5)(a) The knowledge or belief required under Subsection (2) may only be presumed of a secondhand actor if the secondhand actor does not substantially comply with the material requirements of Section 13-32a-104.
- (b) The knowledge or belief required under Subsection (2) may only be presumed of a coin dealer or an employee of a coin dealer if the coin dealer or the employee of the coin dealer does not substantially comply with the requirements of Section 13-32a-104.5.
- (c) The knowledge or belief required under Subsection (2) may only be presumed of a catalytic converter purchaser if the catalytic converter purchaser does not substantially comply with the material requirements of Section 13-32a-104.7.
- (6) Unless acting as a catalytic converter purchaser, Subsection (5)(c) does not apply to a scrap metal processor.
- (7) This section does not preclude the admission of evidence in accordance with the Utah Rules of Evidence.
- (8) An actor who violates Subsection (2) is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

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

76-6-409 . Theft of service.

- (1)(a) As used in this section, "service" includes:
- (i) labor, professional service, a public utility or transportation service, restaurant, hotel, motel, tourist cabin, rooming house, and like accommodations, the supplying of equipment, a tool, a vehicle, or a trailer for temporary use, telegraph service, steam, admission to entertainment, an exhibition, a sporting event, or

- 610 other event for which a charge is made;
- 611 (ii) gas, electricity, water, sewer, or cable television service, only if the service is
- 612 obtained by threat, force, or a form of deception not described in Section
- 613 76-6-409.3; and
- 614 (iii) telephone service, only if the service is obtained by threat, force, or a form of
- 615 deception not described in Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or
- 616 76-6-409.9.
- 617 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 618 (2) An actor commits theft of service if:
- 619 (a) the actor, by deception, threat, force, or another means designed to avoid due
- 620 payment, obtains a service that the actor knows is available only for compensation; or
- 621 (b) the actor:
- 622 (i) has control over the disposition of another person's service; and
- 623 (ii)(A) diverts the other person's service to the benefit of the actor, knowing that
- 624 the actor is not entitled to the service; or
- 625 (B) diverts the other person's service to the benefit of a third person, knowing that
- 626 the third person is not entitled to the service.
- 627 (3) A violation of Subsection (2) is:
- 628 (a) a second degree felony if the value of the service is or exceeds \$5,000;
- 629 (b) a third degree felony if:
- 630 (i) the value of the service is or exceeds \$1,500 but is less than \$5,000;
- 631 (ii) the value of the service is or exceeds \$500 and the actor has been twice before
- 632 convicted of any of the following offenses, if each prior offense was committed
- 633 within 10 years before the date of the current conviction or the date of the offense
- 634 upon which the current conviction is based and at least one of those convictions is
- 635 for a class A misdemeanor:
- 636 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 637 (B) any offense under Part 5, Fraud;[~~or~~]
- 638 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or
- 639 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 640 that is substantially equivalent to an offense under Subsection (3)(b)(ii)(A),
- 641 (B), or (C);
- 642 (iii)(A) the value of the service is or exceeds \$500 but is less than \$1,500;
- 643 (B) the theft occurs on a property where the offender has committed any theft

- 644 within the past five years; and
- 645 (C) the offender has received written notice from the merchant prohibiting the
- 646 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 647 (iv) the actor has been previously convicted of a felony violation of any of the
- 648 offenses listed in Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C)~~], (D), if the prior
- 649 offense was committed within 10 years before the date of the current conviction or
- 650 the date of the offense upon which the current conviction is based;
- 651 (c) a class A misdemeanor if:
- 652 (i) the value of the service stolen is or exceeds \$500 but is less than \$1,500;
- 653 (ii)(A) the value of the service is less than \$500;
- 654 (B) the theft occurs on a property where the offender has committed any theft
- 655 within the past five years; and
- 656 (C) the offender has received written notice from the merchant prohibiting the
- 657 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 658 (iii) the actor has been twice before convicted of any of the offenses listed in
- 659 Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C)~~], (D), if each prior offense was
- 660 committed within 10 years before the date of the current conviction or the date of
- 661 the offense upon which the current conviction is based; or
- 662 (d) a class B misdemeanor if the value of the service is less than \$500 and the theft is not
- 663 an offense under Subsection (3)(c).

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

665 **76-6-409.3 . Theft of utility or cable television services -- Restitution -- Civil**

666 **action for damages.**

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

- 668 (i) "Cable television service" means an audio, video, or data service provided for
- 669 payment by a cable television company over the cable company's cable system
- 670 facilities, but does not include the use of a satellite dish or antenna.
- 671 (ii) "Occupant" includes a person, including the owner, who occupies the whole or
- 672 part of a building, whether alone or with others.
- 673 (iii) "Owner" includes a partial owner, joint owner, tenant in common, joint tenant, or
- 674 tenant by the entirety of the whole or a part of a building and the property on
- 675 which the building is located.
- 676 (iv) "Person" means an individual, firm, partnership, corporation, company,
- 677 association, or other legal entity.

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

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

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

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

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

(b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or other instrument used for measuring quantities of gas, electricity, water, or sewer service, or making or maintaining any modification or alteration to any device installed with the authorization of a cable television company for the purpose of intercepting or receiving any program or other service carried by the company that the actor is not authorized by the company to receive;

(c) reconnecting a gas, electricity, water, sewer, or cable television connection or otherwise restoring service when one or more of those utilities or cable service has been lawfully disconnected or turned off by the provider of the utility or cable service;

(d) intentionally breaking, defacing, or causing to be broken or defaced a seal, locking device, or other part of a metering device for recording usage of gas, electricity, water, or sewer service, or a security system for the recording device, or a cable television control device;

(e) removing a metering device designed to measure quantities of gas, electricity, water, or sewer service;

(f) transferring from one location to another location a metering device for measuring quantities of public utility services of gas, electricity, water, or sewer service;

(g) changing the indicated consumption, jamming the measuring device, bypassing the meter or measuring device with a jumper so that it does not indicate use or registers

712 use incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer
713 service from the utility without the gas, electricity, water, or sewer service passing
714 through a metering device for measuring quantities of consumption for billing
715 purposes;

716 (h) using a metering device belonging to the utility that has not been assigned to the
717 location and installed by the utility;

718 (i) fabricating or using a device to pick or otherwise tamper with the locks used to deter
719 utility service diversion, meter tampering, meter thefts, and unauthorized cable
720 television service;

721 (j) assisting or instructing a person in obtaining or attempting to obtain any cable
722 television service without payment of all lawful compensation to the company
723 providing the service;

724 (k) making or maintaining a connection or connections, whether physical, electrical,
725 mechanical, acoustical, or by other means, with a cable, wire, component, or other
726 device used for the distribution of cable television services without authority from the
727 cable television company; or

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

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

734 (i) a second degree felony if:

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

736 or

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

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

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

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

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

- 746 (i) a second degree felony if the value of the service is or exceeds \$5,000;
747 (ii) a third degree felony if:
748 (A) the value of the service is or exceeds \$1,500 but is less than \$5,000;
749 (B) the value of the service is or exceeds \$500 and the actor has been twice before
750 convicted of any of the following offenses, if each prior offense was committed
751 within 10 years before the date of the current conviction or the date of the
752 offense upon which the current conviction is based and at least one of those
753 convictions is for a class A misdemeanor:
754 (I) any theft, any robbery, or any burglary with intent to commit theft;
755 (II) any offense under Part 5, Fraud;[-or]
756 (III) any attempt to commit any offense under Subsection (3)(b)(ii)(B)(I) or (II);
757 or
758 (IV) any offense in another jurisdiction, including a state, federal, or military
759 court, that is substantially equivalent to an offense under Subsection
760 (3)(b)(ii)(B)(I), (II), or (III); or
761 (C) the actor has been previously convicted of a felony violation of any of the
762 offenses listed in Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(III),~~] (IV),
763 if the prior offense was committed within 10 years before the date of the
764 current conviction or the date of the offense upon which the current conviction
765 is based;
766 (iii) a class A misdemeanor if:
767 (A) the value of the service stolen is or exceeds \$500 but is less than \$1,500; or
768 (B) the actor has been twice before convicted of any of the offenses listed in
769 Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(III),~~] (IV), if each prior
770 offense was committed within 10 years before the date of the current
771 conviction or the date of the offense upon which the current conviction is
772 based; or
773 (iv) a class B misdemeanor if the value of the service is less than \$500 and the theft is
774 not an offense under Subsection (3)(b)(iii).
775 (c)(i) An actor who violates this section shall make restitution to the utility or cable
776 television company for the value of the gas, electricity, water, sewer, or cable
777 television service consumed in violation of this section plus all reasonable
778 expenses and costs incurred on account of the violation of this section.
779 (ii) Reasonable expenses and costs include expenses and costs for investigation,

- 780 disconnection, reconnection, service calls, employee time, and equipment use.
- 781 (4)(a) The presence on property in the possession of an actor of a device or alteration
- 782 that permits the diversion or use of utility or cable service to avoid the registration of
- 783 the use by or on a meter installed by the utility or to otherwise avoid the recording of
- 784 use of the service for payment or otherwise avoid payment gives rise to an inference
- 785 that the actor in possession of the property installed the device or caused the
- 786 alteration if:
- 787 (i) the presence of the device or alteration can be attributed only to a deliberate act in
- 788 furtherance of an intent to avoid payment for utility or cable television service; and
- 789 (ii) the actor charged has received the direct benefit of the reduction of the cost of the
- 790 utility or cable television service.
- 791 (b) An actor who aids or abets in a prohibited act is a party to the offense under Section
- 792 76-2-202.
- 793 (5)(a) Criminal prosecution under this section does not affect the right of a utility or
- 794 cable television company to bring a civil action for redress for damages suffered as a
- 795 result of the commission of any of the acts prohibited by this section.
- 796 (b) This section does not abridge or alter any other right, action, or remedy otherwise
- 797 available to a utility or cable television company.
- 798 Section 11. Section **76-6-410** is amended to read:
- 799 **76-6-410 . Theft by custodian of property pursuant to repair or rental agreement.**
- 800 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 801 (2) An actor commits theft by custodian of property pursuant to repair or rental agreement
- 802 if:
- 803 (a)(i) the actor has custody of property pursuant to an agreement between the actor
- 804 or another person and the property's owner;
- 805 (ii) the actor or another person is to perform for compensation a specific service for
- 806 the property's owner involving the maintenance, repair, or use of the owner's
- 807 property; and
- 808 (iii) the actor intentionally uses or operates the owner's property, without the consent
- 809 of the owner, for the actor's own purposes in a manner constituting a gross
- 810 deviation from the agreed purpose; or
- 811 (b)(i) the actor has custody of any property pursuant to a rental or lease agreement in
- 812 which the property is to be returned in a specified manner or at a specified time;
- 813 and

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

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

(a) a second degree felony if the:

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

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

(b) a third degree felony if:

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

(ii) the property is:

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

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

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

aluminum or copper and is not a lead battery;

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

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

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

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

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

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

(B), or (C); or

(iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) a class A misdemeanor if:

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

(ii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

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

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

76-6-602 . Retail theft.

(1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.

(2) An actor commits retail theft if the actor knowingly:

(a) takes possession of, conceals, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment with the intention of:

(i) retaining the merchandise; or

(ii) depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the retail value of the merchandise;

(b)(i) alters, transfers, or removes any label, price tag, marking, indicia of value, or any other markings which aid in determining value of any merchandise displayed, held, stored, or offered for sale, in a retail mercantile establishment; and

(ii) attempts to purchase the merchandise described in Subsection (2)(b)(i) personally or in consort with another at less than the retail value with the intention of depriving the merchant of the retail value of the merchandise;

(c) transfers any merchandise displayed, held, stored, or offered for sale in a retail mercantile establishment from the container in or on which the merchandise is displayed to any other container with the intention of depriving the merchant of the retail value of the merchandise;

(d) under-rings with the intention of depriving the merchant of the retail value of the merchandise; or

(e) removes a shopping cart from the premises of a retail mercantile establishment with the intent of depriving the merchant of the possession, use, or benefit of the shopping cart.

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

(a) a second degree felony if the:

(i) retail value of the merchandise or shopping cart is or exceeds \$5,000;

(ii) merchandise stolen is a firearm or an operable motor vehicle;[~~or~~]

(b) a third degree felony if:

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

(ii) the merchandise is:

- 882 (A) a catalytic converter as defined under Section 76-6-1402; or
- 883 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 884 if the retail value is less than \$5,000 and the suspect metal is made of or
- 885 contains aluminum or copper and is not a lead battery;
- 886 (iii) the retail value of the merchandise or shopping cart is or exceeds \$500 and the
- 887 actor has been twice before convicted of any of the following offenses, if each
- 888 prior offense was committed within 10 years before the date of the current
- 889 conviction or the date of the offense upon which the current conviction is based
- 890 and at least one of those convictions is for a class A misdemeanor:
- 891 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 892 (B) any offense under Part 5, Fraud;[-or]
- 893 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 894 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 895 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 896 (B), or (C);
- 897 (iv)(A) the retail value of merchandise or shopping cart is or exceeds \$500 but is
- 898 less than \$1,500;
- 899 (B) the theft occurs in a retail mercantile establishment or on the premises of a
- 900 retail mercantile establishment where the offender has committed any theft
- 901 within the past five years; and
- 902 (C) the offender has received written notice from the merchant prohibiting the
- 903 offender from entering the retail mercantile establishment or premises of a
- 904 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 905 (v) the actor has been previously convicted of a felony violation of any of the
- 906 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
- 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 (c) a class A misdemeanor if:
- 910 (i) the retail value of the merchandise or shopping cart stolen is or exceeds \$500 but
- 911 is less than \$1,500;
- 912 (ii)(A) the retail value of merchandise or shopping cart is less than \$500;
- 913 (B) the theft occurs in a retail mercantile establishment or premises of a retail
- 914 mercantile establishment where the offender has committed any theft within
- 915 the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the retail mercantile establishment or premises of a retail mercantile establishment pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(b)(iii)(A) through [(3)(b)(iii)(C),] (D), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) a class B misdemeanor if the retail value of the merchandise or shopping cart stolen is less than \$500 and the theft is not an offense under Subsection (3)(c).

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

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

(1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.

(2) An actor commits the unlawful shielding of a theft detection device if the actor knowingly:

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

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

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

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

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

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

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

76-9-802 . Definitions.

As used in this part:

- (1) "Criminal street gang" means an organization, association in fact, or group of three or more ~~[persons]~~ individuals, whether operated formally or informally:
- (a) that is currently in operation;
 - (b) that has as one of its primary activities the commission of ~~[one or more predicate gang-crimes]~~ a criminal offense;
 - (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and
 - (d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.
- (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of harm for the purpose of causing an individual to act or refrain from acting.
- (3) "Minor" means ~~[a person]~~ an individual younger than 18 years old.
- (4) "Pattern of criminal gang activity" means:
- (a) committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more ~~[predicate gang-crimes]~~ criminal offenses within five years;
 - (b) the ~~[predicate gang-crimes]~~ criminal offenses are:
 - (i) committed by two or more ~~[persons]~~ individuals; or
 - (ii) committed by an individual at the direction of, or in association with a criminal street gang; and
 - (c) the criminal ~~[activity was]~~ offenses were committed with the specific intent to promote, further, or assist in any criminal conduct by members of the criminal street gang.
- ~~[(5)(a) "Predicate gang crime" means any of the following offenses:]~~
- ~~[(i) Title 41, Chapter 1a, Motor Vehicle Act:]~~
 - ~~[(A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;]~~
 - ~~[(B) Section 41-1a-1315, regarding false evidence of title and registration;]~~
 - ~~[(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;]~~
 - ~~[(D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an~~

984 identification number; or]

985 [(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;]

986 [(ii) any criminal violation of the following provisions:]

987 [(A) Title 58, Chapter 37, Utah Controlled Substances Act;]

988 [(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;]

989 [(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or]

990 [(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;]

991 [(iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;]

992 [(iv) Title 76, Chapter 5, Part 2, Criminal Homicide;]

993 [(v) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;]

994 [(vi) a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;]

995 [(vii) Title 76, Chapter 6, Part 1, Property Destruction;]

996 [(viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;]

997 [(ix) Title 76, Chapter 6, Part 3, Robbery;]

998 [(x) a felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76, Chapter 6,

999 Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409,

1000 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

1001 76-6-410.5;]

1002 [(xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507,

1003 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516,

1004 76-6-517, 76-6-518, and 76-6-520;]

1005 [(xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;]

1006 [(xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections

1007 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;]

1008 [(xiv) tampering with a witness under Section 76-8-508;]

1009 [(xv) retaliation against a witness, victim, or informant under Section 76-8-509.3;]

1010 [(xvi) receiving or soliciting a bribe as a witness under Section 76-8-508.7;]

1011 [(xvii) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;]

1012 [(xviii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the

1013 violation occurs at an official meeting;]

1014 [(xix) Title 76, Chapter 10, Part 3, Explosives;]

1015 [(xx) Title 76, Chapter 10, Part 5, Weapons;]

1016 [(xxi) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;]

1017 [(xxii) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;]

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

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

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

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

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

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

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

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

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

~~[(a) solicit, recruit, entice, or intimidate a minor to join a criminal street gang, whether or
not the minor actually joins the criminal street gang;]~~

~~[(b) conspire to commit any act under Subsection (1)(a) with the intent to cause a minor to
join a criminal street gang; or]~~

~~[(c) use intimidation to prevent or attempt to prevent a minor from leaving a criminal street
gang or ending the minor's affiliation with a criminal street gang.]~~

~~[(2) It is a class A misdemeanor for any person who is a member of or actively involved
with a criminal street gang to:]~~

~~[(a) intimidate or otherwise cause a minor to commit or attempt to commit any
misdemeanor criminal offense; or]~~

~~[(b) commit a violation of Subsection (1)(a):]~~

~~[(i) more than once;]~~

~~[(ii) regarding the same minor; and]~~

~~[(iii) within a period of 180 days.]~~

~~[(3) Prosecution for any offense under this section does not prohibit prosecution for any
other criminal offense.]~~

(1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

(2) An actor commits soliciting, recruiting, enticing, or intimidating a minor to join a
criminal street gang if the actor:

(a) solicits, recruits, entices, or intimidates a minor to join a criminal street gang; or

(b) conspires to commit an act described in Subsection (2)(a) with the intent to cause a minor to join a criminal street gang.

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

(a) a class A misdemeanor if the actor is a minor; or

(b) a third degree felony if the actor is 18 years old or older.

(4) It is not a defense to a prosecution under this section that the minor did not join the criminal street gang.

Section 16. Section **76-9-803.1** is enacted to read:

76-9-803.1 . Aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang.

(1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

(2) An actor commits aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang if, in the course of committing an offense under Section 76-9-803, the offense:

(a) involves the use of a dangerous weapon;

(b) results in serious bodily injury to any individual; or

(c) results in serious emotional distress to any individual.

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

(a) a third degree felony if the actor is a minor; or

(b) a second degree felony if the actor is 18 years old or older.

(4) It is not a defense to a prosecution under this section that the minor did not join the criminal street gang.

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

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

(1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

(2) An actor commits intimidating a minor to remain in a criminal street gang if the actor intimidates a minor to prevent the minor from leaving a criminal street gang or ending the minor's affiliation with a criminal street gang.

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

(a) a class A misdemeanor if the actor is a minor; or

(b) a third degree felony if the actor is 18 years old or older.

(4) It is not a defense to a prosecution under this section that the minor described in Subsection (2) left or ended the minor's affiliation with a criminal street gang.

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

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

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

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

76-10-1602 . Definitions.

As used in this part:

- (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.
- (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.
- (3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.
- (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses,

- 1120 regardless of whether the act is in fact charged or indicted by any authority or is
1121 classified as a misdemeanor or a felony:
- 1122 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized
1123 Recording Practices Act;
 - 1124 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality
1125 Code, Sections 19-1-101 through 19-7-109;
 - 1126 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose
1127 of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or
1128 Section 23A-5-311;
 - 1129 (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B,
1130 Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;
 - 1131 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal
1132 Offenses and Procedure Act;
 - 1133 (f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah
1134 Uniform Land Sales Practices Act;
 - 1135 (g) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah
1136 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances
1137 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58,
1138 Chapter 37d, Clandestine Drug Lab Act;
 - 1139 (h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform
1140 Securities Act;
 - 1141 (i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah
1142 Procurement Code;
 - 1143 (j) assault under Section 76-5-102;
 - 1144 (k) aggravated assault under Section 76-5-103;
 - 1145 (l) a threat of terrorism under Section 76-5-107.3;
 - 1146 (m) a criminal homicide offense under Section 76-5-201;
 - 1147 (n) kidnapping under Section 76-5-301;
 - 1148 (o) aggravated kidnapping under Section 76-5-302;
 - 1149 (p) human trafficking for labor under Section 76-5-308;
 - 1150 (q) human trafficking for sexual exploitation under Section 76-5-308.1;
 - 1151 (r) human smuggling under Section 76-5-308.3;
 - 1152 (s) human trafficking of a child under Section 76-5-308.5;
 - 1153 (t) benefiting from trafficking and human smuggling under Section 76-5-309;

- 1154 (u) aggravated human trafficking under Section 76-5-310;
- 1155 (v) sexual exploitation of a minor under Section 76-5b-201;
- 1156 (w) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 1157 (x) arson under Section 76-6-102;
- 1158 (y) aggravated arson under Section 76-6-103;
- 1159 (z) causing a catastrophe under Section 76-6-105;
- 1160 (aa) burglary under Section 76-6-202;
- 1161 (bb) aggravated burglary under Section 76-6-203;
- 1162 (cc) burglary of a vehicle under Section 76-6-204;
- 1163 (dd) manufacture or possession of an instrument for burglary or theft under Section
- 1164 76-6-205;
- 1165 (ee) robbery under Section 76-6-301;
- 1166 (ff) aggravated robbery under Section 76-6-302;
- 1167 (gg) theft under Section 76-6-404;
- 1168 (hh) theft by deception under Section 76-6-405;
- 1169 (ii) theft by extortion under Section 76-6-406;
- 1170 (jj) receiving stolen property under Section 76-6-408;
- 1171 (kk) theft of services under Section 76-6-409;
- 1172 (ll) forgery under Section 76-6-501;
- 1173 (mm) unlawful use of financial transaction card under Section 76-6-506.2;
- 1174 (nn) unlawful acquisition, possession, or transfer of financial transaction card under
- 1175 Section 76-6-506.3;
- 1176 (oo) financial transaction card offenses under Section 76-6-506.6;
- 1177 (pp) deceptive business practices under Section 76-6-507;
- 1178 (qq) bribery or receiving bribe by person in the business of selection, appraisal, or
- 1179 criticism of goods under Section 76-6-508;
- 1180 (rr) bribery of a labor official under Section 76-6-509;
- 1181 (ss) defrauding creditors under Section 76-6-511;
- 1182 (tt) acceptance of deposit by insolvent financial institution under Section 76-6-512;
- 1183 (uu) unlawful dealing with property by fiduciary under Section 76-6-513;
- 1184 (vv) bribery or threat to influence contest under Section 76-6-514;
- 1185 (ww) making a false credit report under Section 76-6-517;
- 1186 (xx) criminal simulation under Section 76-6-518;
- 1187 (yy) criminal usury under Section 76-6-520;

1188 (zz) insurance fraud under Section 76-6-521;
1189 (aaa) retail theft under Section 76-6-602;
1190 (bbb) computer crimes under Section 76-6-703;
1191 (ccc) identity fraud under Section 76-6-1102;
1192 (ddd) mortgage fraud under Section 76-6-1203;
1193 (eee) sale of a child under Section 76-7-203;
1194 (fff) bribery to influence official or political actions under Section 76-8-103;
1195 (ggg) threat to influence official or political action under Section 76-8-104;
1196 (hhh) receiving bribe or bribery by public servant under Section 76-8-105;
1197 (iii) receiving bribe for endorsement of person as a public servant under Section
1198 76-8-106;
1199 (jjj) bribery for endorsement of person as public servant under Section 76-8-106.1;
1200 (kkk) official misconduct based on unauthorized act or failure of duty under Section
1201 76-8-201;
1202 (lll) official misconduct concerning inside information under Section 76-8-202;
1203 (mmm) obstruction of justice in a criminal investigation or proceeding under Section
1204 76-8-306;
1205 (nnn) acceptance of bribe or bribery to prevent criminal prosecution under Section
1206 76-8-308;
1207 (ooo) harboring or concealing offender who has escaped from official custody under
1208 Section 76-8-309.2;
1209 (ppp) making a false or inconsistent material statement under Section 76-8-502;
1210 (qqq) making a false or inconsistent statement under Section 76-8-503;
1211 (rrr) making a written false statement under Section 76-8-504;
1212 (sss) tampering with a witness under Section 76-8-508;
1213 (ttt) retaliation against a witness, victim, or informant under Section 76-8-508.3;
1214 (uuu) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
1215 (vvv) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
1216 (www) tampering with evidence under Section 76-8-510.5;
1217 (xxx) falsification or alteration of a government record under Section 76-8-511, if the
1218 record is a record described in Title 20A, Election Code, or Title 36, Chapter 11,
1219 Lobbyist Disclosure and Regulation Act;
1220 (yyy) public assistance fraud by an applicant for public assistance under Section
1221 76-8-1203.1;

1222 (zzz) public assistance fraud by a recipient of public assistance under Section
 1223 76-8-1203.3;
 1224 (aaaa) public assistance fraud by a provider under Section 76-8-1203.5;
 1225 (bbbb) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;
 1226 (cccc) false statement to obtain or increase unemployment compensation under Section
 1227 76-8-1301;
 1228 (dddd) false statement to prevent or reduce unemployment compensation or liability
 1229 under Section 76-8-1302;
 1230 (eeee) unlawful failure to comply with Employment Security Act requirements under
 1231 Section 76-8-1303;
 1232 (ffff) unlawful use or disclosure of employment information under Section 76-8-1304;
 1233 (gggg) intentionally or knowingly causing one animal to fight with another under
 1234 Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;
 1235 (hhhh) soliciting, recruiting, enticing, or intimidating a minor to join a criminal street
 1236 gang under Section 76-9-803;
 1237 (iiii) aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal
 1238 street gang under Section 76-9-803.1;
 1239 (jjjj) intimidating a minor to remain in a criminal street gang under Section 76-9-803.2;
 1240 (kkkk) aggravated intimidating a minor to remain in a criminal street gang under Section
 1241 76-9-803.3;
 1242 [~~(hhhh)~~] (llll) possession, use, or removal of explosives, chemical, or incendiary devices
 1243 or parts under Section 76-10-306;
 1244 [~~(iiii)~~] (mmmm) delivery to common carrier, mailing, or placement on premises of an
 1245 incendiary device under Section 76-10-307;
 1246 [~~(jjjj)~~] (nnnn) possession of a deadly weapon with intent to assault under Section
 1247 76-10-507;
 1248 [~~(kkkk)~~] (oooo) unlawful marking of pistol or revolver under Section 76-10-521;
 1249 [~~(HHH)~~] (pppp) alteration of number or mark on pistol or revolver under Section 76-10-522;
 1250 [~~(mmmm)~~] (qqqq) forging or counterfeiting trademarks, trade name, or trade device
 1251 under Section 76-10-1002;
 1252 [~~(nnnn)~~] (rrrr) selling goods under counterfeited trademark, trade name, or trade devices
 1253 under Section 76-10-1003;
 1254 [~~(oooo)~~] (ssss) sales in containers bearing registered trademark of substituted articles
 1255 under Section 76-10-1004;

1256 [~~(pppp)~~] (tttt) selling or dealing with article bearing registered trademark or service mark
 1257 with intent to defraud under Section 76-10-1006;
 1258 [~~(qqqq)~~] (uuuu) gambling under Section 76-10-1102;
 1259 [~~(rrrr)~~] (vvvv) gambling fraud under Section 76-10-1103;
 1260 [~~(ssss)~~] (www) gambling promotion under Section 76-10-1104;
 1261 [~~(tttt)~~] (xxxx) possessing a gambling device or record under Section 76-10-1105;
 1262 [~~(uuuu)~~] (yyyy) confidence game under Section 76-10-1109;
 1263 [~~(vvvv)~~] (zzzz) distributing pornographic material under Section 76-10-1204;
 1264 [~~(wwww)~~] (aaaaa) inducing acceptance of pornographic material under Section
 1265 76-10-1205;
 1266 [~~(xxxx)~~] (bbbbb) dealing in harmful material to a minor under Section 76-10-1206;
 1267 [~~(yyyy)~~] (cccc) distribution of pornographic films under Section 76-10-1222;
 1268 [~~(zzzz)~~] (dddd) indecent public displays under Section 76-10-1228;
 1269 [~~(aaaaa)~~] (eeee) prostitution under Section 76-10-1302;
 1270 [~~(bbbbb)~~] (ffff) aiding prostitution under Section 76-10-1304;
 1271 [~~(eeee)~~] (ggggg) exploiting prostitution under Section 76-10-1305;
 1272 [~~(dddd)~~] (hhhhh) aggravated exploitation of prostitution under Section 76-10-1306;
 1273 [~~(eeee)~~] (iiii) communications fraud under Section 76-10-1801;
 1274 [~~(ffff)~~] (jjjjj) an act prohibited by the criminal provisions of Part 19, Money Laundering
 1275 and Currency Transaction Reporting Act;
 1276 [~~(ggggg)~~] (kkkkk) vehicle compartment for contraband under Section 76-10-2801;
 1277 [~~(hhhhh)~~] (lllll) an act prohibited by the criminal provisions of the laws governing
 1278 taxation in this state; or
 1279 [~~(iiii)~~] (mmmmm) an act illegal under the laws of the United States and enumerated in
 1280 18 U.S.C. Sec. 1961(1)(B), (C), and (D).
 1281 Section 20. Section **78B-6-1101** is amended to read:
 1282 **78B-6-1101 . Definitions -- Nuisance -- Right of action -- Agriculture operations.**
 1283 (1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an
 1284 obstruction to the free use of property, so as to interfere with the comfortable enjoyment
 1285 of life or property. A nuisance may be the subject of an action.
 1286 (2) A nuisance may include the following:
 1287 (a) drug houses and drug dealing as provided in Section 78B-6-1107;
 1288 (b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;
 1289 (c) criminal activity committed in concert with [~~three~~] two or more [~~persons~~] individuals

- 1290 as provided in Section 76-3-203.1;
- 1291 (d) criminal activity committed for the benefit of, at the direction of, or in association
- 1292 with any criminal street gang as defined in Section 76-9-802;
- 1293 (e) criminal activity committed to gain recognition, acceptance, membership, or
- 1294 increased status with a criminal street gang as defined in Section 76-9-802;
- 1295 (f) party houses that frequently create conditions defined in Subsection (1); and
- 1296 (g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.
- 1297 (3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a
- 1298 person rents, leases, or owns, from another residential or commercial unit and the smoke:
- 1299 (a) drifts in more than once in each of two or more consecutive seven-day periods; and
- 1300 (b) creates any of the conditions under Subsection (1).
- 1301 (4) Subsection (3) does not apply to:
- 1302 (a) a residential rental unit available for temporary rental, such as for a vacation, or
- 1303 available for only 30 or fewer days at a time; or
- 1304 (b) a hotel or motel room.
- 1305 (5) Subsection (3) does not apply to a unit that is part of a timeshare development, as
- 1306 defined in Section 57-19-2, or subject to a timeshare interest as defined in Section
- 1307 57-19-2.
- 1308 (6) An action may be brought by a person whose property is injuriously affected, or whose
- 1309 personal enjoyment is lessened by the nuisance.
- 1310 (7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter
- 1311 44, Agricultural Operations Nuisances Act.
- 1312 (8) "Critical infrastructure materials operations" means the same as that term is defined in
- 1313 Section 10-9a-901.
- 1314 (9) "Manufacturing facility" means a factory, plant, or other facility including its
- 1315 appurtenances, where the form of raw materials, processed materials, commodities, or
- 1316 other physical objects is converted or otherwise changed into other materials,
- 1317 commodities, or physical objects or where such materials, commodities, or physical
- 1318 objects are combined to form a new material, commodity, or physical object.
- 1319 Section 21. Section **78B-6-1107** is amended to read:
- 1320 **78B-6-1107 . Nuisance -- Drug houses and drug dealing -- Gambling -- Group**
- 1321 **criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.**
- 1322 (1) Every building or place is a nuisance where:
- 1323 (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or

1324 acquisition occurs of any controlled substance, precursor, or analog specified in Title
1325 58, Chapter 37, Utah Controlled Substances Act;

1326 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title
1327 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as
1328 defined in Subsection 78B-6-1101(1);

1329 (c) criminal activity is committed in concert with [~~three~~] two or more [~~persons~~] individuals
1330 as provided in Section 76-3-203.1;

1331 (d) criminal activity is committed for the benefit of, at the direction of, or in association
1332 with any criminal street gang as defined in Section 76-9-802;

1333 (e) criminal activity is committed to gain recognition, acceptance, membership, or
1334 increased status with a criminal street gang as defined in Section 76-9-802;

1335 (f) parties occur frequently which create the conditions of a nuisance as defined in
1336 Subsection 78B-6-1101(1);

1337 (g) prostitution or promotion of prostitution is regularly carried on by one or more
1338 persons as provided in Title 76, Chapter 10, Part 13, Prostitution; and

1339 (h) a violation of Title 76, Chapter 10, Part 5, Weapons, occurs on the premises.

1340 (2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the
1341 defendant is lawfully entitled to possession of a controlled substance.

1342 (3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the
1343 nuisance as defined in Subsection (1).

1344 **Section 22. Effective date.**

1345 This bill takes effect on May 7, 2025.