

1 **PATTERN OF UNLAWFUL ACTIVITY ACT**

2 **AMENDMENTS**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Lowell A. Nelson**

6 AN ACT RELATING TO THE CRIMINAL CODE; ADDING PUBLIC ASSISTANCE FRAUD
7 TO THE LIST OF CRIMES THAT MAY BE PROSECUTED UNDER THE PATTERN OF
8 UNLAWFUL ACTIVITY ACT.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **76-10-1602**, as last amended by Chapters 65 and 174, Laws of Utah 1997

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

13 Section 1. Section **76-10-1602** is amended to read:

14 **76-10-1602. Definitions.**

15 As used in this part:

16 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
17 business trust, association, or other legal entity, and any union or group of individuals associated
18 in fact although not a legal entity, and includes illicit as well as licit entities.

19 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
20 commission of at least three episodes of unlawful activity, which episodes are not isolated, but
21 have the same or similar purposes, results, participants, victims, or methods of commission, or
22 otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall
23 demonstrate continuing unlawful conduct and be related either to each other or to the enterprise.
24 At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July
25 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this
26 part shall have occurred within five years of the commission of the next preceding act alleged as
27 part of the pattern.

28 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
29 interest in property, including state, county, and local governmental entities.

30 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request,
31 command, encourage, or intentionally aid another person to engage in conduct which would
32 constitute any offense described by the following crimes or categories of crimes, or to attempt or
33 conspire to engage in an act which would constitute any of those offenses, regardless of whether
34 the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

- 35 (a) assault or aggravated assault, Sections 76-5-102 and 76-5-103;
- 36 (b) a threat against life or property, Section 76-5-107;
- 37 (c) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;
- 38 (d) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;
- 39 (e) arson or aggravated arson, Sections 76-6-102 and 76-6-103;
- 40 (f) causing a catastrophe, Section 76-6-105;
- 41 (g) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;
- 42 (h) burglary of a vehicle, Section 76-6-204;
- 43 (i) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;
- 44 (j) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;
- 45 (k) theft, Section 76-6-404;
- 46 (l) theft by deception, Section 76-6-405;
- 47 (m) theft by extortion, Section 76-6-406;
- 48 (n) receiving stolen property, Section 76-6-408;
- 49 (o) theft of services, Section 76-6-409;
- 50 (p) forgery, Section 76-6-501;
- 51 (q) fraudulent use of a credit card, Sections 76-6-506.1, 76-6-506.2, and 76-6-506.4;
- 52 (r) computer fraud, Title 76, Chapter 6, Part 7;
- 53 (s) bribery or receiving bribe by person in the business of selection, appraisal, or criticism
54 of goods, Section 76-6-508;
- 55 (t) bribery of a labor official, Section 76-6-509;
- 56 (u) defrauding creditors, Section 76-6-511;
- 57 (v) acceptance of deposit by insolvent financial institution, Section 76-6-512;
- 58 (w) unlawful dealing with property by fiduciary, Section 76-6-513;

- 59 (x) bribery or threat to influence contest, Section 76-6-514;
- 60 (y) making a false credit report, Section 76-6-517;
- 61 (z) criminal simulation, Section 76-6-518;
- 62 (aa) criminal usury, Section 76-6-520;
- 63 (bb) false or fraudulent insurance claim, Section 76-6-521;
- 64 (cc) sale of a child, Section 76-7-203;
- 65 (dd) bribery to influence official or political actions, Section 76-8-103;
- 66 (ee) threats to influence official or political action, Section 76-8-104;
- 67 (ff) receiving bribe or bribery by public servant, Section 76-8-105;
- 68 (gg) receiving bribe or bribery for endorsement of person as public servant, Section
- 69 76-8-106;
- 70 (hh) official misconduct, Sections 76-8-201 and 76-8-202;
- 71 (ii) obstructing justice, Section 76-8-306;
- 72 (jj) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- 73 (kk) false or inconsistent material statements, Section 76-8-502;
- 74 (ll) false or inconsistent statements, Section 76-8-503;
- 75 (mm) written false statements, Section 76-8-504;
- 76 (nn) tampering with a witness, retaliation against a witness or informant, or bribery,
- 77 Section 76-8-508;
- 78 (oo) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- 79 (pp) tampering with evidence, Section 76-8-510;
- 80 (qq) intentionally or knowingly causing one animal to fight with another, Subsection
- 81 76-9-301(1)(f);
- 82 (rr) delivery to common carrier, mailing, or placement on premises of an incendiary
- 83 device, Section 76-10-307;
- 84 (ss) construction or possession of an incendiary device, Section 76-10-308;
- 85 (tt) possession of a deadly weapon with intent to assault, Section 76-10-507;
- 86 (uu) unlawful marking of pistol or revolver, Section 76-10-521;
- 87 (vv) alteration of number or mark on pistol or revolver, Section 76-10-522;
- 88 (ww) forging or counterfeiting trademarks, trade name, or trade device, Section
- 89 76-10-1002;

90 (xx) selling goods under counterfeited trademark, trade name, or trade devices, Section
91 76-10-1003;

92 (yy) sales in containers bearing registered trademark of substituted articles, Section
93 76-10-1004;

94 (zz) selling or dealing with article bearing registered trademark or service mark with intent
95 to defraud, Section 76-10-1006;

96 (aaa) gambling, Section 76-10-1102;

97 (bbb) gambling fraud, Section 76-10-1103;

98 (ccc) gambling promotion, Section 76-10-1104;

99 (ddd) possessing a gambling device or record, Section 76-10-1105;

100 (eee) confidence game, Section 76-10-1109;

101 (fff) distributing pornographic material, Section 76-10-1204;

102 (ggg) inducing acceptance of pornographic material, Section 76-10-1205;

103 (hhh) dealing in harmful material to a minor, Section 76-10-1206;

104 (iii) distribution of pornographic films, Section 76-10-1222;

105 (jjj) indecent public displays, Section 76-10-1228;

106 (kkk) prostitution, Section 76-10-1302;

107 (lll) aiding prostitution, Section 76-10-1304;

108 (mmm) exploiting prostitution, Section 76-10-1305;

109 (nnn) aggravated exploitation of prostitution, Section 76-10-1306;

110 (ooo) sexual exploitation of a minor, Section 76-5a-3;

111 (ppp) communications fraud, Section 76-10-1801;

112 (qqq) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah
113 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, or Title
114 58, Chapter 37c, Utah Controlled Substance Precursor Act;

115 (rrr) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform
116 Securities Act;

117 (sss) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform
118 Land Sales Practices Act;

119 (ttt) false claims for public assistance under Section 35A-1-502, 76-8-1203, 76-8-1204,
120 or 76-8-1205;

121 (uuu) any act prohibited by the criminal provisions of Title 63, Chapter 56, Utah
122 Procurement Code;
123 (vvv) any act prohibited by the criminal provisions of the laws governing taxation in this
124 state;
125 (www) any act prohibited by the criminal provisions of Title 32A, Chapter 12, Criminal
126 Offenses;
127 (xxx) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized
128 Recording Practices Act;
129 (yyy) deceptive business practices, Section 76-6-507;
130 (zzz) any act prohibited by the criminal provisions of Title 76, Chapter 10, Part 19, Money
131 Laundering and Currency Transaction Reporting Act;
132 (aaaa) any act illegal under the laws of the United States and enumerated in Title 18,
133 Section 1961 (1)(B), (C), and (D) of the United States Code;
134 (bbbb) any act prohibited by the criminal provisions of Title 19, Environmental Quality
135 Code, Sections 19-1-101 through 19-7-109;
136 (cccc) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose
137 of sale, trade, or other pecuniary gain, in violation of Title 23, Chapter 13, Wildlife Resources
138 Code of Utah, or Section 23-20-4; [and]
139 (dddd) false claims for medical benefits, kickbacks, and any other act prohibited by False
140 Claims Act, Sections 26-20-1 through 26-20-12[-]; and
141 (eeee) public assistance fraud in violation of Title 76, Chapter 8, Part 12, Public Assistance
142 Fraud.

Legislative Review Note
as of 2-1-99 1:36 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel