

**Representative Michael S. Kennedy** proposes the following substitute bill:

**MEDICAL CANNABIS ACT**

2018 THIRD SPECIAL SESSION

STATE OF UTAH

**Chief Sponsor: Gregory H. Hughes**

Senate Sponsor: Evan J. Vickers

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**LONG TITLE**

**General Description:**

This bill repeals and reenacts the medical cannabis provisions that voters enacted in the 2018 election under Proposition 2 with a future effective date.

**Highlighted Provisions:**

This bill:

- ▶ repeals and reenacts the medical cannabis provisions that voters enacted in the 2018 election under Proposition 2 with a future effective date; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides revisor instructions.

**Utah Code Sections Affected:**

**AMENDS:**

**10-9a-104**, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018

**17-27a-104**, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018

**30-3-10**, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018



26 [62A-4a-202.1](#), as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018

27 [78A-6-508](#) (**Superseded 07/01/19**), as last amended by Laws of Utah 2014, Chapter

28 409

29 [78A-6-508](#) (**Effective 07/01/19**), as last amended by Laws of Utah 2018, Chapter 452

30 ENACTS:

31 [4-41a-101](#), Utah Code Annotated 1953

32 [4-41a-102](#), Utah Code Annotated 1953

33 [4-41a-103](#), Utah Code Annotated 1953

34 [4-41a-104](#), Utah Code Annotated 1953

35 [4-41a-201](#), Utah Code Annotated 1953

36 [4-41a-202](#), Utah Code Annotated 1953

37 [4-41a-203](#), Utah Code Annotated 1953

38 [4-41a-204](#), Utah Code Annotated 1953

39 [4-41a-301](#), Utah Code Annotated 1953

40 [4-41a-302](#), Utah Code Annotated 1953

41 [4-41a-303](#), Utah Code Annotated 1953

42 [4-41a-401](#), Utah Code Annotated 1953

43 [4-41a-402](#), Utah Code Annotated 1953

44 [4-41a-403](#), Utah Code Annotated 1953

45 [4-41a-404](#), Utah Code Annotated 1953

46 [4-41a-405](#), Utah Code Annotated 1953

47 [4-41a-501](#), Utah Code Annotated 1953

48 [4-41a-502](#), Utah Code Annotated 1953

49 [4-41a-601](#), Utah Code Annotated 1953

50 [4-41a-602](#), Utah Code Annotated 1953

51 [4-41a-603](#), Utah Code Annotated 1953

52 [4-41a-701](#), Utah Code Annotated 1953

53 [4-41a-702](#), Utah Code Annotated 1953

54 [4-41a-801](#), Utah Code Annotated 1953

55 [4-41a-802](#), Utah Code Annotated 1953

56 [26-61a-101](#), Utah Code Annotated 1953

- 57            **26-61a-102**, Utah Code Annotated 1953
- 58            **26-61a-103**, Utah Code Annotated 1953
- 59            **26-61a-104**, Utah Code Annotated 1953
- 60            **26-61a-105**, Utah Code Annotated 1953
- 61            **26-61a-106**, Utah Code Annotated 1953
- 62            **26-61a-107**, Utah Code Annotated 1953
- 63            **26-61a-108**, Utah Code Annotated 1953
- 64            **26-61a-109**, Utah Code Annotated 1953
- 65            **26-61a-110**, Utah Code Annotated 1953
- 66            **26-61a-201**, Utah Code Annotated 1953
- 67            **26-61a-202**, Utah Code Annotated 1953
- 68            **26-61a-203**, Utah Code Annotated 1953
- 69            **26-61a-204**, Utah Code Annotated 1953
- 70            **26-61a-301**, Utah Code Annotated 1953
- 71            **26-61a-302**, Utah Code Annotated 1953
- 72            **26-61a-303**, Utah Code Annotated 1953
- 73            **26-61a-304**, Utah Code Annotated 1953
- 74            **26-61a-401**, Utah Code Annotated 1953
- 75            **26-61a-402**, Utah Code Annotated 1953
- 76            **26-61a-403**, Utah Code Annotated 1953
- 77            **26-61a-501**, Utah Code Annotated 1953
- 78            **26-61a-502**, Utah Code Annotated 1953
- 79            **26-61a-503**, Utah Code Annotated 1953
- 80            **26-61a-504**, Utah Code Annotated 1953
- 81            **26-61a-505**, Utah Code Annotated 1953
- 82            **26-61a-506**, Utah Code Annotated 1953
- 83            **26-61a-601**, Utah Code Annotated 1953
- 84            **26-61a-602**, Utah Code Annotated 1953
- 85            **58-37-3.10**, Utah Code Annotated 1953
- 86            **58-37-3.11**, Utah Code Annotated 1953
- 87            **58-37-3.12**, Utah Code Annotated 1953

88 [59-12-104.10](#), Utah Code Annotated 1953

89 REPEALS:

90 [4-41b-101](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

91 [4-41b-102](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

92 [4-41b-103](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

93 [4-41b-104](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

94 [4-41b-201](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

95 [4-41b-202](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

96 [4-41b-203](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

97 [4-41b-204](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

98 [4-41b-301](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

99 [4-41b-302](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

100 [4-41b-303](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

101 [4-41b-401](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

102 [4-41b-402](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

103 [4-41b-403](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

104 [4-41b-404](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

105 [4-41b-405](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

106 [4-41b-501](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

107 [4-41b-502](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

108 [4-41b-601](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

109 [4-41b-602](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

110 [4-41b-603](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

111 [4-41b-701](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

112 [4-41b-702](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

113 [4-41b-801](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

114 [4-41b-802](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

115 [26-60b-101](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

116 [26-60b-102](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

117 [26-60b-103](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

118 [26-60b-104](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

119            [26-60b-105](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
120            [26-60b-106](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
121            [26-60b-107](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
122            [26-60b-108](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
123            [26-60b-109](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
124            [26-60b-110](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
125            [26-60b-201](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
126            [26-60b-202](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
127            [26-60b-203](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
128            [26-60b-204](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
129            [26-60b-301](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
130            [26-60b-302](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
131            [26-60b-303](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
132            [26-60b-304](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
133            [26-60b-401](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
134            [26-60b-402](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
135            [26-60b-403](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
136            [26-60b-501](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
137            [26-60b-502](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
138            [26-60b-503](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
139            [26-60b-504](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
140            [26-60b-505](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
141            [26-60b-506](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
142            [26-60b-601](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
143            [26-60b-602](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
144            [58-37-3.7](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
145            [58-37-3.8](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
146            [58-37-3.9](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018  
147            [59-12-104.7 \(Repealed 01/01/19\)](#), as repealed by Laws of Utah 2018, Second Special  
148 Session, Chapter 6  
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150 *Be it enacted by the Legislature of the state of Utah:*

151 Section 1. Section **4-41a-101** is enacted to read:

152 **CHAPTER 41a. CANNABIS PRODUCTION ESTABLISHMENTS**

153 **Part 1. General Provisions**

154 **4-41a-101. Title.**

155 This chapter is known as "Cannabis Production Establishments."

156 Section 2. Section **4-41a-102** is enacted to read:

157 **4-41a-102. Definitions.**

158 As used in this chapter:

159 (1) "Cannabis" means the same as that term is defined in Section [58-37-3.8](#).

160 (2) "Cannabis cultivation facility" means a person that:

161 (a) possesses cannabis;

162 (b) grows or intends to grow cannabis; and

163 (c) sells or intends to sell cannabis to cannabis production establishments or to  
164 cannabis dispensaries.

165 (3) "Cannabis cultivation facility agent" means an individual who is an owner, officer,  
166 director, board member, employee, or volunteer of a cannabis cultivation facility.

167 (4) "Cannabis dispensary" means the same as that term is defined in Section  
168 [26-61a-102](#).

169 (5) "Cannabis dispensary agent" means the same as that term is defined in Section  
170 [26-61a-102](#).

171 (6) "Cannabis processing facility" means a person that:

172 (a) acquires or intends to acquire cannabis from a cannabis production establishment;

173 (b) possesses cannabis with the intent to manufacture a cannabis product;

174 (c) manufactures or intends to manufacture a cannabis product from unprocessed  
175 cannabis; and

176 (d) sells or intends to sell a cannabis product to a cannabis dispensary.

177 (7) "Cannabis processing facility agent" means an individual who is an owner, officer,  
178 director, board member, employee, or volunteer of a cannabis processing facility.

179 (8) "Cannabis product" means the same as that term is defined in Section [58-37-3.8](#).

180 (9) "Cannabis production establishment" means a cannabis cultivation facility, a

181 cannabis processing facility, or an independent cannabis testing laboratory.

182 (10) "Cannabis production establishment agent" means a cannabis cultivation facility  
183 agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

184 (11) "Cannabis production establishment agent registration card" means a registration  
185 card, issued by the department, that authorizes an individual to act as a cannabis production  
186 establishment agent and designates the type of cannabis production establishment for which an  
187 individual is authorized to act as an agent.

188 (12) "Community location" means a public or private school, a church, a public library,  
189 a public playground, or a public park.

190 (13) "Independent cannabis testing laboratory" means a person that:

191 (a) conducts a chemical or other analysis of cannabis or a cannabis product; or

192 (b) acquires, possesses, and transports cannabis or a cannabis product with the intent to  
193 conduct a chemical or other analysis of the cannabis or cannabis product.

194 (14) "Independent cannabis testing laboratory agent" means an individual who is an  
195 owner, officer, director, board member, employee, or volunteer of an independent cannabis  
196 testing laboratory.

197 (15) "Inventory control system" means the system described in Section [4-41a-103](#).

198 (16) "Medical cannabis card" means the same as that term is defined in Section  
199 [26-61a-102](#).

200 (17) "Medical Cannabis Restricted Account" means the account created in Section  
201 [26-61a-109](#).

202 (18) "Physician" means the same as that term is defined in Section [26-61a-107](#).

203 (19) "State electronic verification system" means the system described in Section  
204 [26-61a-103](#).

205 Section 3. Section **4-41a-103** is enacted to read:

206 **4-41a-103. Inventory control system.**

207 (1) A cannabis production establishment and a cannabis dispensary shall maintain an  
208 inventory control system that meets the requirements of this section.

209 (2) An inventory control system shall track cannabis using a unique identifier, in real  
210 time, from the point that a cannabis plant is eight inches tall, and has a root ball, until the  
211 cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to

212 an individual with a medical cannabis card.

213 (3) An inventory control system shall store in real time a record of the amount of  
214 cannabis and cannabis products in the cannabis production establishment's or cannabis  
215 dispensary's possession.

216 (4) An inventory control system shall include a video recording system that:

217 (a) tracks all handling and processing of cannabis or a cannabis product in the cannabis  
218 production establishment or cannabis dispensary;

219 (b) is tamper proof; and

220 (c) is capable of storing a video record for 45 days.

221 (5) An inventory control system installed in a cannabis production establishment or  
222 cannabis dispensary shall maintain compatibility with the state electronic verification system.

223 (6) A cannabis production establishment or cannabis dispensary shall allow the  
224 department or the Department of Health access to the cannabis production establishment's or  
225 cannabis dispensary's inventory control system during an inspection.

226 (7) The department may establish compatibility standards for an inventory control  
227 system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
228 Rulemaking Act.

229 Section 4. Section **4-41a-104** is enacted to read:

230 **4-41a-104. Preemption.**

231 This chapter preempts any ordinance or rule enacted by a political subdivision of the  
232 state regarding a cannabis production establishment.

233 Section 5. Section **4-41a-201** is enacted to read:

234 **Part 2. Cannabis Production Establishment**

235 **4-41a-201. Cannabis production establishment -- License.**

236 (1) A person may not operate a cannabis production establishment without a license  
237 issued by the department under this chapter.

238 (2) Subject to Subsections (6) and (7) and to Section [4-41a-204](#), the department shall,  
239 within 90 days after receiving a complete application, issue a license to operate a cannabis  
240 production establishment to a person who submits to the department:

241 (a) a proposed name and address where the person will operate the cannabis production  
242 establishment that is not within 600 feet of a community location or within 300 feet of an area

243 zoned exclusively for residential use, as measured from the nearest entrance to the cannabis  
244 production establishment by following the shortest route of ordinary pedestrian travel to the  
245 property boundary of the community location or residential area;

246 (b) the name and address of any individual who has a financial or voting interest of two  
247 percent or greater in the proposed cannabis production establishment or who has the power to  
248 direct or cause the management or control of a proposed medical cannabis production  
249 establishment;

250 (c) an operating plan that complies with Section [4-41a-203](#) and that includes operating  
251 procedures to comply with the requirements of this chapter and with any laws adopted by the  
252 municipality or county that are consistent with Section [4-41a-405](#);

253 (d) financial statements demonstrating that the person possesses a minimum of  
254 \$500,000 in liquid assets available for each cannabis cultivation facility for which the person  
255 applies or a minimum of \$100,000 in liquid assets available for each cannabis processing  
256 facility or independent cannabis testing laboratory for which the person applies;

257 (e) if the municipality or county where the proposed cannabis production establishment  
258 would be located has enacted zoning restrictions, a sworn statement certifying that the  
259 proposed cannabis production establishment is in compliance with the restrictions;

260 (f) if the municipality or county where the proposed cannabis production establishment  
261 would be located requires a local permit or license, a copy of the application for the local  
262 permit or license; and

263 (g) an application fee established by the department in accordance with Section  
264 [63J-1-504](#), that is necessary to cover the department's cost to implement this chapter.

265 (3) If the department determines that a cannabis production establishment is eligible for  
266 a license under this section, the department shall charge the cannabis establishment an initial  
267 license fee in an amount determined by the department in accordance with Section [63J-1-504](#).

268 (4) Except as provided in Subsection (5), the department shall require a separate  
269 license for each type of cannabis production establishment and each location of a cannabis  
270 production establishment.

271 (5) The department may issue a cannabis cultivation facility license and a cannabis  
272 processing facility license to a person to operate at the same physical location or at separate  
273 physical locations.

274 (6) The department may not issue a license to operate an independent cannabis testing  
275 laboratory to a person:

276 (a) that holds a license or has an ownership interest in a cannabis dispensary, a  
277 cannabis processing facility, or a cannabis cultivation facility in the state;

278 (b) that has an owner, officer, director, or employee whose immediate family member  
279 holds a license or has an ownership interest in a cannabis dispensary, a cannabis processing  
280 facility, or a cannabis cultivation facility; or

281 (c) who proposes to operate the independent cannabis testing laboratory at the same  
282 physical location as a cannabis dispensary, a cannabis processing facility, or a cannabis  
283 cultivation facility.

284 (7) The department may not issue a license to operate a cannabis production  
285 establishment to an applicant if any individual who has a financial or voting interest of two  
286 percent or greater in the applicant or who has the power to direct or cause the management or  
287 control of the applicant:

288 (a) has been convicted of an offense that is a felony under either state or federal law; or

289 (b) is less than 21 years of age.

290 (8) The department may revoke a license under this part if the cannabis production  
291 establishment is not operating within one year of the issuance of the initial license.

292 (9) The department shall deposit the proceeds of a fee imposed by this section in the  
293 Medical Cannabis Restricted Account.

294 (10) The department shall begin accepting applications under this part no later than  
295 January 1, 2023.

296 Section 6. Section **4-41a-202** is enacted to read:

297 **4-41a-202. Renewal.**

298 The department shall renew a person's license issued under Section [4-41a-201](#) every  
299 two years, if, at the time of renewal:

300 (1) the person meets the requirements of Section [4-41a-201](#); and

301 (2) the person pays the department a license renewal fee in an amount determined by  
302 the department in accordance with Section [63J-1-504](#).

303 Section 7. Section **4-41a-203** is enacted to read:

304 **4-41a-203. Operating plan.**

305 (1) A person applying for a cannabis production facility license shall submit to the  
306 department a proposed operation plan that complies with this section and that includes:  
307 (a) a description of the physical characteristics of the proposed facility, including a  
308 floor plan and an architectural elevation;  
309 (b) a description of the credentials and experience of:  
310 (i) each officer, director, or owner of the proposed cannabis production establishment;  
311 and  
312 (ii) any highly skilled or experienced prospective employee;  
313 (c) the cannabis production establishment's employee training standards;  
314 (d) a security plan;  
315 (e) a description of the cannabis production establishment's inventory control system,  
316 including a plan to make the inventory control system compatible with the state electronic  
317 verification system;  
318 (f) for a cannabis cultivation facility, the information described in Subsection (2);  
319 (g) for a cannabis processing facility, the information described in Subsection (3); and  
320 (h) for an independent cannabis testing laboratory, the information described in  
321 Subsection (4).

322 (2) A cannabis cultivation facility's operating plan shall include the cannabis  
323 cultivation facility's intended cannabis cultivation practices, including the cannabis cultivation  
324 facility's intended pesticide use, fertilizer use, square footage under cultivation, and anticipated  
325 cannabis yield.

326 (3) A cannabis processing facility's operating plan shall include the cannabis  
327 processing facility's intended cannabis processing practices, including the cannabis processing  
328 facility's intended offered variety of cannabis product, cannabinoid extraction method,  
329 cannabinoid extraction equipment, processing equipment, processing techniques, and sanitation  
330 and food safety procedures.

331 (4) An independent cannabis testing laboratory's operating plan shall include the  
332 independent cannabis testing laboratory's intended cannabis and cannabis product testing  
333 capability and cannabis and cannabis product testing equipment.

334 Section 8. Section **4-41a-204** is enacted to read:

335 **4-41a-204. Number of licenses -- Cannabis cultivation facilities.**

336 (1) Except as otherwise provided in Subsection (2), the department may issue not more  
337 than 15 licenses to operate cannabis cultivation facilities.

338 (2) After January 1, 2022, the department may issue additional licenses to operate  
339 cannabis cultivation facilities if the department determines, after an analysis of the current and  
340 anticipated market for medical cannabis and medical cannabis products, that additional licenses  
341 are needed to provide an adequate supply, quality, or variety of medical cannabis and medical  
342 cannabis products to medical cannabis card holders in Utah.

343 (3) If there are more qualified applicants than there are available licenses for cannabis  
344 cultivation facilities, the department shall evaluate the applicants and award licenses to the  
345 applicants that best demonstrate:

346 (a) experience with establishing and successfully operating a business that involves  
347 complying with a regulatory environment, tracking inventory, and training, evaluating, and  
348 monitoring employees;

349 (b) an operating plan that will best ensure the safety and security of patrons and the  
350 community;

351 (c) positive connections to the local community; and

352 (d) the extent to which the applicant can reduce the cost of cannabis or cannabis  
353 products for patients.

354 (4) The department may conduct a face-to-face interview with an applicant for a  
355 license that the department evaluates under Subsection (3).

356 Section 9. Section **4-41a-301** is enacted to read:

357 **Part 3. Cannabis Production Establishment Agents**

358 **4-41a-301. Cannabis production establishment agent -- Registration.**

359 (1) An individual may not act as a cannabis production establishment agent unless the  
360 individual is registered by the department as a cannabis production establishment agent.

361 (2) A physician may not serve as a cannabis production establishment agent.

362 (3) An independent cannabis testing laboratory agent may not act as an agent for a  
363 cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility.

364 (4) The department shall, within 15 business days after receiving a complete  
365 application from a cannabis production establishment on behalf of a prospective cannabis  
366 production establishment agent, register and issue a cannabis production establishment agent

367 registration card to an individual who:

368 (a) provides to the department the individual's name and address and the name and  
369 location of a licensed cannabis production establishment where the individual will act as the  
370 cannabis production establishment's agent; and

371 (b) pays a fee to the department, in an amount determined by the department in  
372 accordance with Section 63J-1-504, that is necessary to cover the department's cost to  
373 implement this part.

374 (5) The department shall designate, on an individual's cannabis production  
375 establishment agent registration card:

376 (a) the name of the cannabis production establishment where the individual is  
377 registered as an agent; and

378 (b) the type of cannabis production establishment for which the individual is  
379 authorized to act as an agent.

380 (6) A cannabis production establishment agent shall comply with a certification  
381 standard developed by the department or with a third party certification standard designated by  
382 the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
383 Rulemaking Act.

384 (7) The certification standard described in Subsection (6) shall include training:

385 (a) in Utah medical cannabis law;

386 (b) for a cannabis cultivation facility agent, in cannabis cultivation best practices;

387 (c) for a cannabis processing facility agent, in cannabis processing, food safety, and  
388 sanitation best practices; and

389 (d) for an independent cannabis testing laboratory agent, in cannabis testing best  
390 practices.

391 (8) The department may revoke or refuse to issue the cannabis production  
392 establishment agent registration card of an individual who:

393 (a) violates the requirements of this chapter; or

394 (b) is convicted of an offense that is a felony under state or federal law.

395 Section 10. Section **4-41a-302** is enacted to read:

396 **4-41a-302. Cannabis production establishment -- Criminal background checks.**

397 (1) Each applicant shall submit, at the time of application, from each individual who

398 has a financial or voting interest of two percent or greater in the applicant or who has the power  
399 to direct or cause the management or control of the applicant:

400 (a) a fingerprint card in a form acceptable to the department; and

401 (b) consent to a fingerprint background check by the Utah Bureau of Criminal

402 Identification and the Federal Bureau of Investigation.

403 (2) The department shall request that the Department of Public Safety complete a  
404 Federal Bureau of Investigation criminal background check for the individual described in  
405 Subsection (1).

406 Section 11. Section **4-41a-303** is enacted to read:

407 **4-41a-303. Cannabis production establishment agent registration card --**

408 **Rebuttable presumption.**

409 (1) A cannabis production establishment agent who is registered with the department  
410 under Section [4-41a-301](#) shall carry the individual's cannabis production establishment agent  
411 registration card with the individual at all times when:

412 (a) the individual is on the premises of a cannabis production establishment where the  
413 individual is a cannabis production establishment agent; and

414 (b) the individual is transporting cannabis, a cannabis product, or a medical cannabis  
415 device between two cannabis production establishments or between a cannabis production  
416 establishment and a cannabis dispensary.

417 (2) If an individual handling cannabis, a cannabis product, or a medical cannabis  
418 device at a cannabis production establishment, or transporting cannabis, a cannabis product, or  
419 a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis  
420 device in compliance with Subsection (1):

421 (a) there is a rebuttable presumption that the individual possesses the cannabis,  
422 cannabis product, or medical cannabis device legally; and

423 (b) a law enforcement officer does not have probable cause, based solely on the  
424 individual's possession of the cannabis, cannabis product, or medical cannabis device in  
425 compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

426 (3) An individual who violates Subsection (1) is:

427 (a) guilty of an infraction; and

428 (b) is subject to a \$100 fine.

429 Section 12. Section **4-41a-401** is enacted to read:

430 **Part 4. General Cannabis Production Establishment Operating Requirements**

431 **4-41a-401. Cannabis production establishment -- General operating**  
432 **requirements.**

433 (1) (a) A cannabis production establishment shall operate in accordance with the  
434 operating plan provided to the department under Section [4-41a-203](#).

435 (b) A cannabis production establishment shall notify the department before a change in  
436 the cannabis production establishment's operating plan.

437 (2) A cannabis production establishment shall operate:

438 (a) except as provided in Subsection (5), in a facility that is accessible only by an  
439 individual with a valid cannabis production establishment agent registration card issued under  
440 Section [4-41a-301](#); and

441 (b) at the physical address provided to the department under Section [4-41a-201](#).

442 (3) A cannabis production establishment may not employ any person who is younger  
443 than 21 years of age.

444 (4) A cannabis production establishment shall conduct a background check into the  
445 criminal history of every person who will become an agent of the cannabis production  
446 establishment and may not employ any person who has been convicted of an offense that is a  
447 felony under either state or federal law.

448 (5) A cannabis production establishment may authorize an individual who is not a  
449 cannabis production establishment agent to access the cannabis production establishment if the  
450 cannabis production establishment tracks and monitors the individual at all times while the  
451 individual is at the cannabis production establishment and maintains a record of the individual's  
452 access.

453 (6) A cannabis production establishment shall operate in a facility that has:

454 (a) a single, secure public entrance;

455 (b) a security system with a backup power source that:

456 (i) detects and records entry into the cannabis production establishment; and

457 (ii) provides notice of an unauthorized entry to law enforcement when the cannabis  
458 production establishment is closed; and

459 (c) a lock on any area where the cannabis production establishment stores cannabis or a

460 cannabis product.

461 Section 13. Section **4-41a-402** is enacted to read:

462 **4-41a-402. Inspections.**

463 The department may inspect the records and facility of a cannabis production  
464 establishment at any time in order to determine if the cannabis production establishment  
465 complies with the requirements of this chapter.

466 Section 14. Section **4-41a-403** is enacted to read:

467 **4-41a-403. Advertising.**

468 (1) A cannabis production establishment may not advertise to the general public in any  
469 medium.

470 (2) Notwithstanding Subsection (1), a cannabis production establishment may advertise  
471 employment opportunities at the cannabis production facility.

472 Section 15. Section **4-41a-404** is enacted to read:

473 **4-41a-404. Cannabis, cannabis product, or medical cannabis device**  
474 **transportation.**

475 (1) Except for an individual with a valid medical cannabis card pursuant to Title 26,  
476 Chapter 61a, Medical Cannabis Act, an individual may not transport cannabis, a cannabis  
477 product, or a medical cannabis device unless the individual is:

478 (a) a registered cannabis production establishment agent; or

479 (b) a registered cannabis dispensary agent.

480 (2) Except for an individual with a valid medical cannabis card pursuant to Title 26,  
481 Chapter 61a, Medical Cannabis Act, an individual transporting cannabis, a cannabis product, or  
482 a medical cannabis device shall possess a transportation manifest that:

483 (a) includes a unique identifier that links the cannabis, cannabis product, or medical  
484 cannabis device to a relevant inventory control system;

485 (b) includes origin and destination information for any cannabis, cannabis product, or  
486 medical cannabis device the individual is transporting; and

487 (c) indicates the departure and arrival times and locations of the individual transporting  
488 the cannabis, cannabis product, or medical cannabis device.

489 (3) In addition to the requirements in Subsections (1) and (2), the department may  
490 establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

491 Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical  
492 cannabis device that are related to safety for human cannabis or cannabis product consumption.

493 (4) An individual who transports cannabis, a cannabis product, or a medical cannabis  
494 device with a manifest that does not meet the requirements of this section is:

495 (a) guilty of an infraction; and

496 (b) subject to a \$100 fine.

497 Section 16. Section **4-41a-405** is enacted to read:

498 **4-41a-405. Local control.**

499 (1) A municipality or county may not enact a zoning ordinance that prohibits a  
500 cannabis production establishment from operating in a location within the municipality's or  
501 county's jurisdiction on the sole basis that the cannabis production establishment possesses,  
502 grows, manufactures, or sells cannabis.

503 (2) A municipality or county may not deny or revoke a permit or license to operate a  
504 cannabis production facility on the sole basis that the applicant or cannabis production  
505 establishment violates a law of the United States.

506 Section 17. Section **4-41a-501** is enacted to read:

507 **Part 5. Cannabis Cultivation Facility Operating Requirements**

508 **4-41a-501. Cannabis cultivation facility -- Operating requirements.**

509 (1) A cannabis cultivation facility shall ensure that any cannabis growing at the  
510 cannabis cultivation facility is not visible at the cannabis cultivation facility perimeter.

511 (2) A cannabis cultivation facility shall use a unique identifier that is connected to the  
512 cannabis cultivation facility's inventory control system for:

513 (a) beginning at the time a cannabis plant is 8 inches tall and has a root ball, each  
514 cannabis plant;

515 (b) each unique harvest of cannabis plants;

516 (c) each batch of cannabis transferred to a cannabis dispensary, a cannabis processing  
517 facility, or an independent cannabis testing laboratory; and

518 (d) disposal of excess, contaminated, or deteriorated cannabis.

519 Section 18. Section **4-41a-502** is enacted to read:

520 **4-41a-502. Cannabis -- Labeling and packaging.**

521 (1) Cannabis shall have a label that:

522 (a) has a unique batch identification number that is connected to the inventory control  
523 system; and

524 (b) does not display images, words, or phrases that are intended to appeal to children.

525 (2) A cannabis cultivation facility shall package cannabis in a container that:

526 (a) is tamper evident;

527 (b) is not appealing to children or similar to a candy container;

528 (c) is opaque; and

529 (d) complies with child-resistant effectiveness standards established by the United  
530 States Consumer Product Safety Commission.

531 Section 19. Section **4-41a-601** is enacted to read:

532 **Part 6. Cannabis Processing Facility Operating Requirements**

533 **4-41a-601. Cannabis processing facility -- Operating requirements -- General.**

534 (1) A cannabis processing facility shall ensure that a cannabis product sold by the  
535 cannabis processing facility complies with the requirements of this part.

536 (2) If a cannabis processing facility extracts cannabinoids from cannabis using a  
537 hydrocarbon process, the cannabis processing facility shall extract the cannabinoids under a  
538 blast hood and shall use a system to reclaim solvents.

539 Section 20. Section **4-41a-602** is enacted to read:

540 **4-41a-602. Cannabis product -- Labeling and packaging.**

541 (1) A cannabis product shall have a label that:

542 (a) clearly and unambiguously states that the cannabis product contains cannabis;

543 (b) clearly displays the amount of tetrahydrocannabinol and cannabidiol in the cannabis  
544 product;

545 (c) has a unique identification number that:

546 (i) is connected to the inventory control system; and

547 (ii) identifies the unique cannabis product manufacturing process by which the  
548 cannabis product was manufactured;

549 (d) identifies the cannabinoid extraction process that the cannabis processing facility  
550 used to create the cannabis product;

551 (e) does not display images, words, or phrases that are intended to appeal to children;

552 and

- 553 (f) discloses ingredients and possible allergens.
- 554 (2) A cannabis processing facility shall package a cannabis product in a container that:
- 555 (a) is tamper evident;
- 556 (b) is not appealing to children or similar to a candy container;
- 557 (c) is opaque; and
- 558 (d) complies with child-resistant effectiveness standards established by the United
- 559 States Consumer Product Safety Commission.

560 Section 21. Section **4-41a-603** is enacted to read:

561 **4-41a-603. Cannabis product -- Product quality.**

- 562 (1) A cannabis processing facility may not produce a cannabis product in a physical
- 563 form that:
- 564 (a) is intended to appeal to children; or
- 565 (b) is designed to mimic or be mistaken for an existing candy product.
- 566 (2) A cannabis processing facility may not manufacture a cannabis product by applying
- 567 a cannabis agent only to the surface of a pre-manufactured food product that is not produced by
- 568 the cannabis processing facility.
- 569 (3) A cannabis product may vary in the cannabis product's labeled cannabis profile by
- 570 up to 15% of the indicated amount of a given cannabinoid, by weight.
- 571 (4) The department shall adopt, by rule made in accordance with Title 63G, Chapter 3,
- 572 Utah Administrative Rulemaking Act, human safety standards for manufacture of cannabis
- 573 products that are consistent, to the extent possible, with rules for similar products that do not
- 574 contain cannabis.

575 Section 22. Section **4-41a-701** is enacted to read:

576 **Part 7. Independent Cannabis Testing Laboratories**

577 **4-41a-701. Cannabis and cannabis product testing.**

- 578 (1) No cannabis or cannabis product may be offered for sale at a cannabis dispensary
- 579 unless a representative sample of the cannabis or cannabis product has been tested by an
- 580 independent cannabis testing laboratory to determine:
- 581 (a) the amount of tetrahydrocannabinol and cannabidiol in the cannabis or cannabis
- 582 product;
- 583 (b) that the presence of contaminants, including mold, fungus, pesticides, microbial

584 contaminants, or foreign material, does not exceed an amount that is safe for human  
585 consumption; and

586 (c) for a cannabis product that is manufactured using a process that involves extraction  
587 using hydrocarbons, that the cannabis product does not contain an unhealthy level of a residual  
588 solvent.

589 (2) The department may determine, by rule made in accordance with Title 63G,  
590 Chapter 3, Utah Administrative Rulemaking Act, the amount of a substance described in  
591 Subsection (1) that is safe for human consumption.

592 Section 23. Section **4-41a-702** is enacted to read:

593 **4-41a-702. Reporting -- Inspections -- Seizure by the department.**

594 (1) If an independent cannabis testing laboratory determines that the results of a lab test  
595 indicate that a cannabis or cannabis product batch may be unsafe for human consumption, the  
596 independent cannabis testing laboratory shall:

597 (a) report the results and the cannabis or cannabis product batch to:

598 (i) the department; and

599 (ii) the cannabis production establishment that prepared the cannabis or cannabis  
600 product batch;

601 (b) retain possession of the cannabis or cannabis product batch for one week in order to  
602 investigate the cause of the defective batch and to make a determination; and

603 (c) allow the cannabis production establishment that prepared the cannabis or cannabis  
604 product batch to appeal the determination described in Subsection (1)(b).

605 (2) If, under Subsection (1)(b), the department determines, following an appeal, that a  
606 cannabis or cannabis product prepared by a cannabis production establishment is unsafe for  
607 human consumption, the department may seize, embargo, or destroy the cannabis or cannabis  
608 product batch.

609 Section 24. Section **4-41a-801** is enacted to read:

610 **Part 8. Enforcement**

611 **4-41a-801. Enforcement -- Fine -- Citation.**

612 (1) The department may, for a violation of this chapter by a person that is a cannabis  
613 production establishment or a cannabis production establishment agent:

614 (a) revoke the person's license or cannabis production establishment agent registration

615 card;

616 (b) refuse to renew the person's license or cannabis production establishment agent  
617 registration card; or

618 (c) assess the person an administrative penalty.

619 (2) The department shall deposit an administrative penalty imposed under this section  
620 into the General Fund.

621 (3) (a) The department may take an action described in Subsection (3)(b) if the  
622 department concludes, upon inspection or investigation, that, for a person that is a cannabis  
623 production establishment or a cannabis production establishment agent:

624 (i) the person has violated the provisions of this chapter, a rule made under this  
625 chapter, or an order issued under this chapter; or

626 (ii) the person produced cannabis or a cannabis product batch that contains a substance  
627 that poses a threat to human health.

628 (b) If the department makes the determination about a person described in Subsection  
629 (3)(a), the department shall:

630 (i) issue the person a written citation;

631 (ii) attempt to negotiate a stipulated settlement;

632 (iii) seize, embargo, or destroy the cannabis or cannabis product batch; and

633 (iv) direct the person to appear before an adjudicative proceeding conducted under  
634 Title 63G, Chapter 4, Administrative Procedures Act.

635 (4) The department may, for a person subject to an uncontested citation, a stipulated  
636 settlement, or a finding of a violation in an adjudicative proceeding under this section:

637 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to  
638 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance  
639 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

640 (b) order the person to cease and desist from the action that creates a violation.

641 (5) The department may not revoke a cannabis production establishment's license  
642 without first direct the cannabis production establishment to appear before an adjudicative  
643 proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

644 (6) If within 20 calendar days after the day on which a department serves a citation for  
645 a violation of this chapter, the person that is the subject of the citation fails to request a hearing

646 to contest the citation, the citation becomes the department's final order.

647 (7) The department may, for a person who fails to comply with a citation under this  
648 section:

649 (a) refuse to issue or renew the person's license or cannabis production establishment  
650 agent registration card; or

651 (b) suspend, revoke, or place on probation the person's license or cannabis production  
652 establishment registration card.

653 (8) If the department makes a final determination under this section that an individual  
654 violated a provision of this chapter, the individual is guilty of an infraction.

655 Section 25. Section **4-41a-802** is enacted to read:

656 **4-41a-802. Report.**

657 (1) The department shall report annually to the Health and Human Services Interim  
658 Committee on the number of applications and renewal applications received, the number of  
659 each type of cannabis production facility licensed in each county, the amount of cannabis  
660 grown by licensees, the amount of cannabis manufactured into cannabis products by licensees,  
661 the number of licenses revoked, and the expenses incurred and revenues generated from the  
662 medical cannabis program.

663 (2) The department may not include personally identifying information in the report.

664 Section 26. Section **10-9a-104** is amended to read:

665 **10-9a-104. Stricter requirements or higher standards.**

666 (1) Except as provided in Subsection (2), a municipality may enact an ordinance  
667 imposing stricter requirements or higher standards than are required by this chapter.

668 (2) A municipality may not impose stricter requirements or higher standards than are  
669 required by:

670 [~~(a) Section 4-41b-405;~~]

671 [~~(b)~~] (a) Section 10-9a-305; or

672 [~~(c)~~] (b) Section 10-9a-514[~~;~~ and].

673 [~~(d) Section 26-60b-506;~~]

674 Section 27. Section **17-27a-104** is amended to read:

675 **17-27a-104. Stricter requirements or higher standards.**

676 (1) Except as provided in Subsection (2), a county may enact an ordinance imposing

677 stricter requirements or higher standards than are required by this chapter.

678 (2) A county may not impose stricter requirements or higher standards than are  
679 required by:

680 [~~(a) Section 4-41b-405;~~]

681 [~~(b)~~] (a) Section 17-27a-305; or

682 [~~(c)~~] (b) Section 17-27a-513[~~;~~and].

683 [~~(d) Section 26-60b-506;~~]

684 Section 28. Section 26-61a-101 is enacted to read:

685 **CHAPTER 61a. MEDICAL CANNABIS ACT**

686 **Part 1. General Provisions**

687 **26-61a-101. Title.**

688 This chapter is known as "Medical Cannabis Act."

689 Section 29. Section 26-61a-102 is enacted to read:

690 **26-61a-102. Definitions.**

691 As used in this chapter:

692 (1) "Cannabis" means the same as that term is defined in Section 58-37-3.8.

693 (2) "Cannabis cultivation facility" means the same as that term is defined in Section  
694 4-41a-102.

695 (3) "Cannabis dispensary" means a person that:

696 (a) acquires or intends to acquire cannabis or a cannabis product from a cannabis  
697 production establishment and acquires or intends to acquire a medical cannabis device;

698 (b) possesses cannabis, a cannabis product, or a medical cannabis device; and

699 (c) sells or intends to sell cannabis, a cannabis product, or a medical cannabis device.

700 (4) "Cannabis dispensary agent" means an owner, officer, director, board member,  
701 employee, or volunteer of a cannabis dispensary.

702 (5) "Cannabis dispensary agent registration card" means a registration card issued by  
703 the department that authorizes an individual to act as a cannabis dispensary agent.

704 (6) "Cannabis processing facility" means the same as that term is defined in Section  
705 4-41a-102.

706 (7) "Cannabis product" means the same as that term is defined in Section 58-37-3.8.

707 (8) "Cannabis production establishment agent" means the same as that term is defined

708 in Section [4-41a-102](#).

709 (9) "Cannabis production establishment agent registration card" means the same as that  
710 term is defined in Section [4-41a-102](#).

711 (10) "Community location" means a public or private school, a church, a public library,  
712 a public playground, or a public park.

713 (11) "Designated caregiver" means an individual:

714 (a) whom a patient with a medical cannabis card designates as the patient's caregiver;  
715 and

716 (b) registers with the department under Section [26-61a-202](#).

717 (12) "Independent cannabis testing laboratory" means the same as that term is defined  
718 in Section [4-41a-102](#).

719 (13) "Inventory control system" means the system described in Section [4-41a-103](#).

720 (14) "Medical cannabis card" means an official card issued by the department to an  
721 individual with a qualifying illness, or the individual's designated caregiver under this chapter,  
722 that is connected to the electronic verification system.

723 (15) "Medical cannabis device" means the same as that term is defined in Section  
724 [58-37-3.8](#).

725 (16) "Medical Cannabis Restricted Account" means the account created in Section  
726 [26-61a-109](#).

727 (17) "Physician" means an individual who is qualified to recommend cannabis under  
728 Section [26-61a-107](#).

729 (18) "Qualifying illness" means a condition described in Section [26-61a-105](#).

730 (19) "State electronic verification system" means the system described in Section  
731 [26-61a-103](#).

732 Section 30. Section **26-61a-103** is enacted to read:

733 **26-61a-103. Electronic verification system.**

734 (1) The Department of Agriculture and Food, the Department of Health, the  
735 Department of Public Safety, and the Department of Technology Services shall:

736 (a) enter into a memorandum of understanding in order to determine the function and  
737 operation of an electronic verification system;

738 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah

739 Procurement Code, to develop a request for proposals for a third-party provider to develop and  
740 maintain an electronic verification system in coordination with the Department of Technology  
741 Services; and

742 (c) select a third-party provider described in Subsection (1)(b).

743 (2) The electronic verification system described in Subsection (1) shall:

744 (a) allow an individual, with the individual's physician in the physician's office, to  
745 apply for a medical cannabis card;

746 (b) allow a physician to electronically recommend, during a visit with a patient,  
747 treatment with cannabis or a cannabis product;

748 (c) connect with an inventory control system used by a cannabis dispensary to track, in  
749 real time, and to archive for no more than 60 days, purchase history of cannabis or a cannabis  
750 product by a medical cannabis card holder, including the time and date of the purchase, the  
751 quantity and type of cannabis or cannabis product purchased, and any cannabis production  
752 establishment and cannabis dispensary associated with the cannabis or cannabis product;

753 (d) provide access to the Department of Health and the Department of Agriculture and  
754 Food to the extent necessary to carry out the Department of Health's and the Department of  
755 Agriculture and Food's functions and responsibilities under this chapter and under Title 4,  
756 Chapter 41a, Cannabis Production Establishments;

757 (e) provide access to state or local law enforcement during a traffic stop for the purpose  
758 of determining if the individual subject to the traffic stop is complying with state medical  
759 cannabis law, or after obtaining a warrant;

760 (f) create a record each time a person accesses the database that identifies the person  
761 who accessed the database and the individual whose records are accessed; and

762 (g) be operational no later than March 1, 2023.

763 (3) The Department of Health may release de-identified data collected by the system  
764 for the purpose of conducting medical research and for providing the report required by Section  
765 [26-61a-602](#).

766 Section 31. Section **26-61a-104** is enacted to read:

767 **26-61a-104. Preemption.**

768 This chapter preempts any ordinance or rule enacted by a political subdivision of the  
769 state regarding a cannabis dispensary or a medical cannabis card.

770 Section 32. Section **26-61a-105** is enacted to read:

771 **26-61a-105. Qualifying illness.**

772 (1) For the purposes of this chapter, the following conditions are considered a  
773 qualifying illness:

774 (a) HIV, acquired immune deficiency syndrome or an autoimmune disorder;

775 (b) Alzheimer's disease;

776 (c) amyotrophic lateral sclerosis;

777 (d) cancer, cachexia, or a condition manifest by physical wasting, nausea, or  
778 malnutrition associated with chronic disease;

779 (e) Crohn's disease, ulcerative colitis, or a similar gastrointestinal disorder;

780 (f) epilepsy or a similar condition that causes debilitating seizures;

781 (g) multiple sclerosis or a similar condition that causes persistent and debilitating  
782 muscle spasms;

783 (h) post-traumatic stress disorder;

784 (i) autism;

785 (j) a rare condition or disease that affects less than 200,000 persons in the United  
786 States, as defined in Section 526 of the Federal Food, Drug, and Cosmetic Act; and

787 (k) chronic or debilitating pain in an individual, if:

788 (i) a physician determines that the individual is at risk of becoming chemically  
789 dependent on, or overdosing on, opiate-based pain medication; or

790 (ii) a physician determines that the individual is allergic to opiates or is otherwise  
791 medically unable to use opiates.

792 (2) In addition to the conditions described in Subsection (1), a condition approved  
793 under Section [26-61a-106](#), in an individual, on a case-by-case basis, is considered a qualifying  
794 illness for the purposes of this chapter.

795 Section 33. Section **26-61a-106** is enacted to read:

796 **26-61a-106. Compassionate Use Board.**

797 (1) The department shall establish a Compassionate Use Board consisting of:

798 (a) five physicians who are knowledgeable about the medicinal use of cannabis and  
799 certified by the appropriate board in one of the following specialties: neurology, pain medicine  
800 and pain management, medical oncology, psychiatry, infectious disease, internal medicine,

801 pediatrics, and gastroenterology; and

802 (b) the director of the Department of Health or the director's designee as a non-voting  
803 member.

804 (2) (a) Two of the members of the board first appointed shall serve for a term of three  
805 years and two of the members of the board first appointed shall serve for a term of four years.

806 (b) After the first members' terms expire, members of the board shall serve for a term  
807 of four years and shall be eligible for reappointment.

808 (c) Any member of the board may serve until a successor is appointed.

809 (d) The director of the Department of Health or the director's designee shall serve as  
810 the chair of the board.

811 (3) A quorum of the Compassionate Use Board shall consist of three members.

812 (4) A member of the board may not receive compensation or benefits for the member's  
813 service, but may receive per diem and travel expenses in accordance with Section [63A-3-106](#),  
814 Section [63A-3-107](#), and rules made by the Division of Finance pursuant to Sections [63A-3-106](#)  
815 and [63A-3-107](#).

816 (5) The Compassionate Use Board shall:

817 (a) review and recommend to the department approval for an individual who is not  
818 otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for  
819 compassionate use if:

820 (i) the individual offers, in the board's discretion, satisfactory evidence that the  
821 individual suffers from a condition that substantially impairs the individual's quality of life and  
822 is intractable; and

823 (ii) the board determines it is in the best interest of the patient to allow the  
824 compassionate use of medical cannabis;

825 (b) meet to receive or review compassionate use petitions quarterly, unless no petitions  
826 are pending, or as often as necessary if there are more petitions than the board can receive or  
827 review during the board's regular schedule;

828 (c) complete a review of each petition and recommend approval or denial of the  
829 applicant for qualification for a medical cannabis card within 90 days of receipt; and

830 (d) report, before November 1 of each year, to the Health and Human Services Interim  
831 Committee, the number of compassionate use approvals the board issued during the past year

832 and the types of conditions for which the board approved compassionate use.

833 (6) The department shall review any compassionate use approved by the board under  
834 this section to determine if the board properly exercised the board's discretion under this  
835 section.

836 (7) If the department determines the board properly approved an individual for  
837 compassionate use under this section, the department shall issue a medical cannabis card.

838 (8) Any individually identifiable health information contained in a petition received  
839 under this section shall be a protected record in accordance with Title 63G, Chapter 2,  
840 Government Records Access and Management Act.

841 (9) The Compassionate Use Board may recommend to the Health and Human Services  
842 Interim Committee:

843 (a) a condition to designate as a qualifying illness under Section [26-61a-105](#); or

844 (b) a condition to remove as a qualifying illness under Section [26-61a-105](#).

845 Section 34. Section **26-61a-107** is enacted to read:

846 **26-61a-107. Physician qualification.**

847 (1) For the purposes of this chapter, a physician means an individual, other than a  
848 veterinarian, who is licensed to prescribe a controlled substance under Title 58, Chapter 37,  
849 Utah Controlled Substances Act, and who possesses the authority, in accordance with the  
850 individual's scope of practice, to prescribe Schedule II controlled substances.

851 (2) A physician may recommend cannabis if the physician recommends cannabis to no  
852 more than 20% of the physician's patients at any given time.

853 (3) A physician may recommend cannabis to greater than 20% of the physician's  
854 patients if the physician is certified, by the appropriate American medical board, in one of the  
855 following specialties: anesthesiology, gastroenterology, neurology, oncology, pain and  
856 palliative care, physiatry, or psychiatry.

857 (4) A physician may recommend cannabis to an individual under this chapter only in  
858 the course of a physician-patient relationship after the physician has completed a full  
859 assessment of the patient's condition and medical history.

860 (5) (a) Except as provided in Subsection (5)(b), a physician eligible to recommend  
861 cannabis or a cannabis product under this section may not advertise that the physician  
862 recommends cannabis or a cannabis product.

863 (b) A physician may advertise via a website that displays only:

864 (i) a green cross;

865 (ii) the location and hours of operation of the physician's office;

866 (iii) a qualifying illness that the physician treats; and

867 (iv) a scientific study regarding cannabis use.

868 Section 35. Section **26-61a-108** is enacted to read:

869 **26-61a-108. Standard of care -- Medical practitioners not liable -- No private right**  
870 **of action.**

871 A physician who recommends treatment with cannabis or a cannabis product to an  
872 individual in accordance with this chapter may not, based on the recommendation, be subject to  
873 civil liability, criminal liability, or licensure sanctions under Title 58, Chapter 67, Utah Medical  
874 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

875 Section 36. Section **26-61a-109** is enacted to read:

876 **26-61a-109. Medical Cannabis Restricted Account -- Creation.**

877 (1) There is created in the General Fund a restricted account known as the "Medical  
878 Cannabis Restricted Account."

879 (2) The account created in this section is funded from:

880 (a) money deposited into the account by the Department of Agriculture and Food under  
881 Title 4, Chapter 41a, Cannabis Production Establishments;

882 (b) money deposited into the account by the department under this chapter;

883 (c) appropriations made to the account by the Legislature; and

884 (d) the interest described in Subsection (3).

885 (3) Interest earned on the account is deposited into the account.

886 (4) Money in the account may only be used to fund the state medical cannabis program,  
887 including Title 26, Chapter 61a, Medical Cannabis Act, and Title 4, Chapter 41a, Cannabis  
888 Production Establishments.

889 Section 37. Section **26-61a-110** is enacted to read:

890 **26-61a-110. Nondiscrimination for use of cannabis, a cannabis product, or a**  
891 **medical cannabis device.**

892 (1) For purposes of medical care, including organ and tissue transplants, the use of  
893 cannabis by a patient who holds a medical cannabis card in accordance with this chapter is

894 considered the equivalent of the authorized use of any other medication used at the discretion  
895 of a physician and does not constitute the use of an illicit substance or otherwise disqualify an  
896 individual from needed medical care.

897 (2) No landlord may refuse to lease to and may not otherwise penalize a person solely  
898 for the person's status as a medical cannabis card holder, unless failing to do so would cause  
899 the landlord to lose a monetary or licensing-related benefit under federal law.

900 Section 38. Section **26-61a-201** is enacted to read:

901 **Part 2. Medical Cannabis Card Registration**

902 **26-61a-201. Medical cannabis card -- Application -- Fees -- Database.**

903 (1) The Department of Health shall, no later than March 1, 2023, and within 15 days  
904 after an individual submits an application in compliance with this section, issue a medical  
905 cannabis card to an individual who complies with this section.

906 (2) An individual is eligible for a medical cannabis card if:

907 (a) the individual is at least 18 years old, the individual is a Utah resident, and  
908 treatment with medical cannabis has been recommended by the individual's physician under  
909 Subsection (4); or

910 (b) the individual is the parent or legal guardian of a minor, the individual is at least 18  
911 years old, the individual is a Utah resident, and treatment with medical cannabis has been  
912 recommended by the minor's physician under Subsection (4).

913 (3) An individual who is eligible for a medical cannabis card under Subsection (2)  
914 shall submit an application for a medical cannabis card to the department via an electronic  
915 application connected to the electronic verification system, with the recommending physician  
916 while in the recommending physician's office, and that includes the individual's name, gender,  
917 age, and address.

918 (4) A physician who recommends treatment with medical cannabis to an individual or  
919 minor shall:

920 (a) state in the physician's recommendation that the individual suffers from a qualifying  
921 illness, including the type of qualifying illness, and that the individual may benefit from  
922 treatment with cannabis or a cannabis product; and

923 (b) before recommending cannabis or a cannabis product, look up the individual in the  
924 controlled substance database created in Section [58-37f-201](#).

925 (5) A medical cannabis card issued by the department under this section is valid for the  
926 lesser of an amount of time determined by the physician or six months.

927 (6) An individual who has been issued a medical cannabis card under this section may:

928 (a) carry a valid medical cannabis card with the patient's name;

929 (b) purchase, possess, and transport, in accordance with this chapter, cannabis, a  
930 cannabis product, or a medical cannabis device;

931 (c) use or assist with the use of medical cannabis or medical cannabis products to treat  
932 the qualifying illness or symptoms associated with the qualifying illness of the person for  
933 whom medical cannabis has been recommended; and

934 (d) after January 1, 2024, if a licensed cannabis dispensary is not operating within 100  
935 miles of the medical cannabis card holder's primary residence, grow up to six cannabis plants  
936 for personal medical use within an enclosed and locked space and not within view from a  
937 public place and that is not within 600 feet of a community location or within 300 feet of an  
938 area zoned exclusively for residential use, as measured from the nearest entrance to the space  
939 and following the shortest route or ordinary pedestrian travel to the property boundary of the  
940 community location or residential area.

941 (7) The department may establish procedures, by rule in accordance with Title 63G,  
942 Chapter 3, Utah Administrative Rulemaking Act, to implement the medical cannabis card  
943 application and issuance provisions of this section.

944 (8) (a) A person may submit, to the department, a request to conduct a medical research  
945 study using medical cannabis cardholder data contained in the electronic verification system.

946 (b) The department shall review a request submitted under Subsection (8)(a) to  
947 determine if the medical research study is valid.

948 (c) If the department determines that the medical research study is valid under  
949 Subsection (8)(b), the department shall notify a relevant medical cannabis cardholder asking  
950 for the medical cannabis cardholder's participation in the study.

951 (d) The department may release, for the purposes of a study, information about a  
952 medical cannabis cardholder who consents to participation under Subsection (8)(c).

953 (e) The department may establish standards for a medical research study's validity, by  
954 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

955 Section 39. Section **26-61a-202** is enacted to read:

956           26-61a-202. Medical cannabis card --- Designated caregiver -- Registration --  
957 **Renewal -- Revocation.**

958           (1) An individual may designate up to two individuals to serve as designated caregivers  
959 for the individual if:

960           (a) the individual has a valid medical cannabis card under Section [26-61a-201](#); and

961           (b) a physician determines that, due to physical difficulty or undue hardship, the  
962 individual needs assistance to obtain cannabis or a cannabis product from a cannabis  
963 dispensary.

964           (2) An individual registered as a designated caregiver under this section may:

965           (a) carry a valid medical cannabis card with the designating patient's name and the  
966 designated caregiver's name;

967           (b) purchase, possess, and transport, in accordance with this chapter, cannabis, a  
968 cannabis product, or a medical cannabis device on behalf of the designating patient;

969           (c) accept reimbursement from the designating patient for direct costs incurred by the  
970 designated caregiver for assisting with the designating patient's medicinal use of cannabis; and

971           (d) after January 1, 2024, if a licensed cannabis dispensary is not operating within 100  
972 miles of the designating patient's primary residence, assist the designating patient with growing  
973 up to six cannabis plants for personal medicinal use within an enclosed and locked space and  
974 not within view from a public place and that is not within 600 feet of a community location or  
975 within 300 feet of an area zoned exclusively for residential use, as measured from the nearest  
976 entrance to the space and following the shortest route or ordinary pedestrian travel to the  
977 property boundary of the community location or residential area.

978           (3) The department shall, within 30 days after an individual submits an application in  
979 compliance with this section, issue a medical cannabis card to an individual designated as a  
980 caregiver under Subsection (1) and who complies with this section.

981           (4) An individual is eligible for a medical cannabis card as a designated caregiver if the  
982 individual:

983           (a) is at least 18 years old;

984           (b) is a Utah resident;

985           (c) pays, to the department, a fee established by the department in accordance with  
986 Section [63J-1-504](#), plus the cost of a criminal background check required by Section

987 [26-61a-203](#); and

988 (d) has not been convicted of an offense that is a felony under either state or federal  
989 law, unless any sentence imposed was completed seven or more years earlier.

990 (5) An individual who is eligible for a medical cannabis card as a designated caregiver  
991 shall submit an application for a medical cannabis card to the department via an electronic  
992 application connected to the electronic verification system and shall include the individual's  
993 name, gender, age, and address and the name of the patient that designated the individual under  
994 Subsection (1).

995 (6) A medical cannabis card issued by the department under this section is valid for the  
996 lesser of an amount of time determined by the physician, by the patient, or six months.

997 (7) A medical cannabis card is renewable for a designated caregiver if, at the time of  
998 renewal:

999 (a) the individual with a medical cannabis card described in Subsection (1) renews the  
1000 caregiver's designation; and

1001 (b) the designated caregiver meets the requirements of Subsection (4).

1002 (8) A designated caregiver may not charge an individual a fee to act as the individual's  
1003 designated caregiver or for services provided.

1004 (9) The Department of Health may revoke a designated caregiver's medical cannabis  
1005 card if the individual:

1006 (a) violates this chapter; or

1007 (b) is convicted of an offense that is a felony under either state or federal law.

1008 Section 40. Section **26-61a-203** is enacted to read:

1009 **26-61a-203. Designated caregiver -- Criminal background check.**

1010 (1) An individual registered as a designated caregiver under Section [26-61a-202](#) shall  
1011 submit to a criminal background check in accordance with Subsection (2).

1012 (2) Each designated caregiver shall:

1013 (a) submit, to the department, a fingerprint card in a form acceptable to the department  
1014 and the Department of Public Safety; and

1015 (b) consent to a fingerprint background check by:

1016 (i) the Utah Bureau of Criminal Identification; and

1017 (ii) the Federal Bureau of Investigation.

1018 (3) The Department of Public Safety shall complete a Federal Bureau of Investigation  
1019 criminal background check for each designated caregiver under Subsection (2) and report the  
1020 results of the background check to the department.

1021 Section 41. Section **26-61a-204** is enacted to read:

1022 **26-61a-204. Medical cannabis card -- Patient and designated caregiver**  
1023 **requirements -- Rebuttable presumption.**

1024 (1) An individual who has a medical cannabis card and who possesses cannabis or a  
1025 cannabis product outside of the individual's residence shall:

1026 (a) carry, with the individual at all times, the individual's medical cannabis card;

1027 (b) carry, with the cannabis or cannabis product, a label that identifies that the cannabis  
1028 or cannabis product was originally sold from a licensed cannabis dispensary and includes an  
1029 identification number that links the cannabis or cannabis product to the inventory control  
1030 system; and

1031 (c) possess not more than four ounces of unprocessed cannabis or an amount of  
1032 cannabis product that contains 20 or fewer grams of tetrahydrocannabinol or cannabidiol.

1033 (2) (a) Except as described in Subsection (2)(b), an individual who has a medical  
1034 cannabis card may not use cannabis or a cannabis product in public view.

1035 (b) An individual may use cannabis or a cannabis product in public view in the event of  
1036 a medical emergency.

1037 (3) If an individual possesses cannabis or a cannabis product in compliance with  
1038 Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis  
1039 product:

1040 (a) there is a rebuttable presumption that the individual possesses the cannabis,  
1041 cannabis product, or medical cannabis device legally; and

1042 (b) a law enforcement officer does not have probable cause, based solely on the  
1043 individual's possession of the cannabis, cannabis product, or medical cannabis device, to  
1044 believe that the individual is engaging in illegal activity.

1045 (4) (a) If a law enforcement officer stops an individual who possesses cannabis, a  
1046 cannabis product, or a medical cannabis device, and the individual represents to the law  
1047 enforcement officer that the individual holds a valid medical cannabis card, but the individual  
1048 does not have the medical cannabis card in the individual's possession at the time of the stop by

1049 the law enforcement officer, the law enforcement officer shall attempt to access the electronic  
1050 verification system to determine whether the individual holds a valid medical cannabis card.

1051 (b) If the law enforcement officer is able to verify that the individual described in  
1052 Subsection (4)(a) holds a valid medical cannabis card, the law enforcement officer:

1053 (i) may not arrest or take the individual into custody for the sole reason that the  
1054 individual is in possession of cannabis, a cannabis product, or a medical cannabis device; and

1055 (ii) may not seize the cannabis, cannabis product, or medical cannabis device.

1056 (5) An individual who possesses cannabis, a cannabis product, or a medical cannabis  
1057 device in violation of Subsection (1)(a) or (b) is guilty of an infraction and subject to a \$100  
1058 fine.

1059 Section 42. Section **26-61a-301** is enacted to read:

1060 **Part 3. Cannabis Dispensary License**

1061 **26-61a-301. Cannabis dispensary -- License -- Eligibility.**

1062 (1) A person may not operate as a cannabis dispensary without a license issued by the  
1063 department issued under this part.

1064 (2) Subject to Subsection (4) and to Section [26-61a-304](#), the department shall, within  
1065 90 business days after receiving a complete application, issue a license to operate a cannabis  
1066 dispensary to a person who submits to the department:

1067 (a) a proposed name and address where the person will operate the cannabis dispensary  
1068 that is not within 600 feet of a community location or within 300 feet of an area zoned  
1069 exclusively for residential use, as measured from the nearest entrance to the cannabis  
1070 production establishment by following the shortest route of ordinary pedestrian travel to the  
1071 property boundary of the community location or residential area;

1072 (b) the name and address of any individual who has a financial or voting interest of two  
1073 percent or greater in the proposed cannabis dispensary or who has the power to direct or cause  
1074 the management or control of a proposed cannabis production establishment;

1075 (c) financial statements demonstrating that the person possesses a minimum of  
1076 \$250,000 in liquid assets available for each application submitted to the department;

1077 (d) an operating plan that complies with Section [26-61a-303](#) and that includes  
1078 operating procedures to comply with the operating requirements for a cannabis dispensary  
1079 described in this chapter and with any laws adopted by the municipality or county that are

1080 consistent with Section 26-61a-506;

1081 (e) if the municipality or county where the proposed cannabis production establishment  
1082 would be located has enacted zoning restrictions, a sworn statement certifying that the  
1083 proposed cannabis dispensary is in compliance with the restrictions;

1084 (f) if the municipality or county where the proposed cannabis dispensary would be  
1085 located requires a local permit or license, a copy of the application for the local permit or  
1086 license; and

1087 (g) an application fee established by the department in accordance with Section  
1088 63J-1-504 that is necessary to cover the department's cost to implement this part;

1089 (3) If the department determines that a cannabis dispensary is eligible for a license  
1090 under this section, the department shall charge the cannabis dispensary an initial license fee in  
1091 an amount determined by the department in accordance with Section 63J-1-504.

1092 (4) The department may not issue a license to operate a cannabis dispensary to an  
1093 applicant if any individual who has a financial or voter interest of two percent or greater in the  
1094 cannabis dispensary applicant or who has power to direct or cause the management or control  
1095 of the applicant:

1096 (a) has been convicted of an offense that is a felony under either state or federal law; or  
1097 (b) is less than 21 years of age.

1098 (5) The department may revoke a license under this part if the cannabis dispensary is  
1099 not operating within one year of the issuance of the initial license.

1100 (6) The department shall deposit the proceeds of a fee imposed by this section in the  
1101 Medical Cannabis Restricted Account.

1102 (7) The department shall begin accepting applications under this part no later than  
1103 March 1, 2023.

1104 Section 43. Section **26-61a-302** is enacted to read:

1105 **26-61a-302. Renewal.**

1106 (1) Except as provided in Subsection (2), the department shall renew a person's license  
1107 under this part every two years if, at the time of renewal:

1108 (a) the person meets the requirements of Section 26-61a-301; and

1109 (b) the person pays the department a license renewal fee in an amount determined by  
1110 the department in accordance with Section 63J-1-504.

1111 (2) (a) If a licensed cannabis dispensary abandons the cannabis dispensary's license, the  
1112 department shall publish notice of an available license in a newspaper of general circulation for  
1113 the geographic area in which the cannabis dispensary license is available or on the Utah Public  
1114 Notice Website established in Section 63F-1-701.

1115 (b) The department may establish criteria, in accordance with Title 63G, Chapter 3,  
1116 Utah Administrative Rulemaking Act, for what actions by a cannabis dispensary constitute  
1117 abandonment of a cannabis dispensary license.

1118 Section 44. Section **26-61a-303** is enacted to read:

1119 **26-61a-303. Operating plan.**

1120 A person applying for a cannabis dispensary license shall submit to the department a  
1121 proposed operation plan for the cannabis dispensary that complies with this section and that  
1122 includes:

1123 (1) a description of the physical characteristics of the proposed facility, including a  
1124 floor plan and an architectural elevation;

1125 (2) a description of the credentials and experience of:

1126 (a) each officer, director, or owner of the proposed cannabis dispensary; and

1127 (b) any highly skilled or experienced prospective employee;

1128 (3) the cannabis dispensary's employee training standards;

1129 (4) a security plan; and

1130 (5) a description of the cannabis dispensary's inventory control system, including a plan  
1131 to make the inventory control system compatible with the electronic verification system.

1132 Section 45. Section **26-61a-304** is enacted to read:

1133 **26-61a-304. Maximum number of licenses.**

1134 (1) The department may not issue more than the greater of, in each county in the state:

1135 (a) one cannabis dispensary license; or

1136 (b) an amount of cannabis dispensary licenses equal to the number of residents in the  
1137 county divided by 150,000, rounded up to the nearest greater whole number.

1138 (2) If there are more qualified applicants than there are available licenses for cannabis  
1139 dispensaries, the department shall evaluate the applicants and award the license to the applicant  
1140 that best demonstrates:

1141 (a) experience with establishing and successfully operating a business that involves

1142 complying with a regulatory environment, tracking inventory, and training, evaluating, and  
1143 monitoring employees;

1144 (b) an operating plan that will best ensure the safety and security of patrons and the  
1145 community;

1146 (c) positive connections to the local community;

1147 (d) the suitability of the proposed location and its accessibility for qualifying patients;

1148 and

1149 (e) the extent to which the applicant can reduce the cost of cannabis or cannabis  
1150 products for patients.

1151 (3) The department may conduct a face-to-face interview with an applicant for a  
1152 license that the department evaluates under Subsection (2).

1153 Section 46. Section **26-61a-401** is enacted to read:

1154 **Part 4. Cannabis Dispensary Agents**

1155 **26-61a-401. Cannabis dispensary agent -- Registration.**

1156 (1) An individual may not serve as a cannabis dispensary agent of a cannabis  
1157 dispensary unless the individual is registered by the department as a cannabis dispensary agent.

1158 (2) A physician may not act as a cannabis dispensary agent.

1159 (3) The department shall, within 15 days after receiving a complete application from a  
1160 cannabis dispensary on behalf of a prospective cannabis dispensary agent, register and issue a  
1161 cannabis dispensary agent registration card to an individual who:

1162 (a) provides to the department the individual's name and address and the name and  
1163 location of the licensed cannabis dispensary where the individual seeks to act as the cannabis  
1164 dispensary agent; and

1165 (b) pays a fee to the department, in an amount determined by the department in  
1166 accordance with Section [63J-1-504](#), that is necessary to cover the department's cost to  
1167 implement this part.

1168 (4) The department shall designate, on an individual's cannabis dispensary agent  
1169 registration card, the name of the cannabis dispensary where the individual is registered as an  
1170 agent.

1171 (5) A cannabis dispensary agent shall comply with a certification standard developed  
1172 by the department, or a third party certification standard designated by the department, by rule

1173 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1174 (6) The certification standard described in Subsection (5) shall include training in:

1175 (a) Utah medical cannabis law; and

1176 (b) cannabis dispensary best practices.

1177 (7) The department may revoke or refuse to issue the cannabis dispensary agent  
1178 registration card of an individual who:

1179 (a) violates the requirements of this chapter; or

1180 (b) is convicted of an offense that is a felony under state or federal law.

1181 Section 47. Section **26-61a-402** is enacted to read:

1182 **26-61a-402. Cannabis dispensary agents -- Criminal background checks.**

1183 (1) Each applicant shall submit, at the time of application, from each individual who  
1184 has a financial or voting interest of two percent or greater in the applicant or who has the power  
1185 to direct or cause the management or control of the applicant:

1186 (a) a fingerprint card in a form acceptable to the department; and

1187 (b) consent to a fingerprint background check by the Utah Bureau of Criminal  
1188 Identification and the Federal Bureau of Investigation.

1189 (2) The department shall request that the Department of Public Safety complete a  
1190 Federal Bureau of Investigation criminal background check for each individual described in  
1191 Subsection (1).

1192 Section 48. Section **26-61a-403** is enacted to read:

1193 **26-61a-403. Cannabis dispensary agent registration card -- Rebuttable**  
1194 **presumption.**

1195 (1) A cannabis dispensary agent who is registered with the department under Section  
1196 26-61a-401 shall carry the individual's cannabis dispensary agent registration card with the  
1197 individual at all times when:

1198 (a) the individual is on the premises of a cannabis dispensary; and

1199 (b) the individual is transporting cannabis, a cannabis product, or a medical cannabis  
1200 device between two cannabis production establishments or between a cannabis production  
1201 establishment and a cannabis dispensary.

1202 (2) If an individual handling cannabis, a cannabis product, or a medical cannabis  
1203 device at a cannabis dispensary, or transporting cannabis, a cannabis product, or a medical

1204 cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in  
1205 compliance with Subsection (1):

1206 (a) there is a rebuttable presumption that the individual possesses the cannabis,  
1207 cannabis product, or medical cannabis device legally; and

1208 (b) a law enforcement officer does not have probable cause, based solely on the  
1209 individual's possession of the cannabis, cannabis product, or medical cannabis device in  
1210 compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

1211 (3) An individual who violates Subsection (1) is:

1212 (a) guilty of an infraction; and

1213 (b) is subject to a \$100 fine.

1214 Section 49. Section **26-61a-501** is enacted to read:

1215 **Part 5. Cannabis Dispensary Operation**

1216 **26-61a-501. Operating requirements -- General.**

1217 (1) (a) A cannabis dispensary shall operate in accordance with the operating plan  
1218 provided to the department under Section [26-61a-303](#).

1219 (b) A cannabis dispensary shall notify the department before a change in the cannabis  
1220 dispensary's operating plan.

1221 (2) A cannabis dispensary shall operate:

1222 (a) except as provided in Subsection (5), in a facility that is accessible only by an  
1223 individual with a valid cannabis dispensary agent registration card or a medical cannabis card;

1224 and

1225 (b) at the physical address provided to the department under Section [26-61a-301](#).

1226 (3) A cannabis dispensary may not employ any person who is younger than 21 years of  
1227 age.

1228 (4) A cannabis dispensary shall conduct a background check into the criminal history  
1229 of every person who will become an agent of the cannabis dispensary and may not employ any  
1230 person who has been convicted of an offense that is a felony under either state or federal law.

1231 (5) A cannabis dispensary may authorize an individual who is not a cannabis  
1232 dispensary agent to access the cannabis dispensary if the cannabis dispensary tracks and  
1233 monitors the individual at all times while the individual is at the cannabis dispensary and  
1234 maintains a record of the individual's access.

- 1235 (6) A cannabis dispensary shall operate in a facility that has:  
1236 (a) a single, secure public entrance;  
1237 (b) a security system with a backup power source that:  
1238 (i) detects and records entry into the cannabis dispensary; and  
1239 (ii) provides notice of an unauthorized entry to law enforcement when the cannabis  
1240 dispensary is closed; and  
1241 (c) a lock on any area where the cannabis dispensary stores cannabis or a cannabis  
1242 product.
- 1243 (7) A cannabis dispensary shall post, clearly and conspicuously in the cannabis  
1244 dispensary, the limit on the purchase of cannabis described in Subsection [26-61a-502\(3\)](#).
- 1245 (8) A cannabis dispensary may not allow any individual to consume cannabis on the  
1246 property or premises of the cannabis dispensary.
- 1247 (9) A cannabis dispensary may not sell cannabis or a cannabis product without first  
1248 indicating on the cannabis or cannabis product label the name of the cannabis dispensary.
- 1249 Section 50. Section **26-61a-502** is enacted to read:
- 1250 **26-61a-502. Dispensing -- Amount a cannabis dispensary may dispense --**  
1251 **Reporting -- Form of cannabis or cannabis product.**
- 1252 (1) A cannabis dispensary may only sell, subject to this chapter:  
1253 (a) cannabis;  
1254 (b) a cannabis product;  
1255 (c) a medical cannabis device; or  
1256 (d) educational materials related to the medical use of cannabis.
- 1257 (2) A cannabis dispensary may only sell the items listed in Subsection (1) to an  
1258 individual with a medical cannabis card issued by the department.
- 1259 (3) A cannabis dispensary may not dispense on behalf of any one individual with a  
1260 medical cannabis card, in any one 14-day period:  
1261 (a) an amount of unprocessed cannabis that exceeds two ounces by weight; or  
1262 (b) an amount of cannabis products that contains, in total, greater than 10 grams of  
1263 tetrahydrocannabinol or cannabidiol.
- 1264 (4) An individual with a medical cannabis card may not purchase more cannabis or  
1265 cannabis products than the amounts designated in Subsection (3) in any one 14-day period.

1266 (5) A cannabis dispensary shall:

1267 (a) access the electronic verification system before dispensing cannabis or a cannabis  
1268 product to an individual with a medical cannabis card in order to determine if the individual  
1269 has met the maximum amount of cannabis or cannabis products described in Subsection (3);  
1270 and

1271 (b) submit a record to the electronic verification system each time the cannabis  
1272 dispensary dispenses cannabis or a cannabis product to an individual with a medical cannabis  
1273 card.

1274 (6) (a) Except as provided in Subsection (6)(b), a cannabis dispensary may not sell  
1275 medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally  
1276 designed or constructed to resemble a cigarette.

1277 (b) A cannabis dispensary may sell a medical cannabis device that warms cannabis  
1278 material into a vapor without the use of a flame and that delivers cannabis to an individual's  
1279 respiratory system.

1280 (7) A cannabis dispensary may give to an individual with a medical cannabis card, at  
1281 no cost, a product that the cannabis dispensary is allowed to sell under Subsection (1).

1282 Section 51. Section **26-61a-503** is enacted to read:

1283 **26-61a-503. Inspections.**

1284 The department may inspect the records and facility of a cannabis dispensary at any  
1285 time in order to determine if the cannabis dispensary complies with the licensing requirements  
1286 of this part.

1287 Section 52. Section **26-61a-504** is enacted to read:

1288 **26-61a-504. Advertising.**

1289 (1) Except as provided in Subsections (2) and (3), a cannabis dispensary may not  
1290 advertise in any medium.

1291 (2) A cannabis dispensary may use signage on the outside of the cannabis dispensary  
1292 that includes only:

1293 (a) the cannabis dispensary's name and hours of operation; and

1294 (b) a green cross.

1295 (3) A cannabis dispensary may maintain a website that includes information about:

1296 (a) the location and hours of operation of the cannabis dispensary;

1297 (b) the products and services available at the cannabis dispensary;

1298 (c) personnel affiliated with the cannabis dispensary;

1299 (d) best practices that the cannabis dispensary upholds; and

1300 (e) educational materials related to the medical use of cannabis.

1301 Section 53. Section **26-61a-505** is enacted to read:

1302 **26-61a-505. Cannabis, cannabis product, or medical cannabis device**

1303 **transportation.**

1304 (1) Except for an individual with a valid medical cannabis card, an individual may not  
1305 transport cannabis, a cannabis product, or a medical cannabis device unless the individual is:

1306 (a) a registered cannabis production establishment agent; or

1307 (b) a registered cannabis dispensary agent.

1308 (2) Except for an individual with a valid medical cannabis card, an individual

1309 transporting cannabis, a cannabis product, or a medical cannabis device shall possess a  
1310 transportation manifest that:

1311 (a) includes a unique identifier that links the cannabis, cannabis product, or medical  
1312 cannabis device to a relevant inventory control system;

1313 (b) includes origin and destination information for any cannabis, cannabis product, or  
1314 medical cannabis device the individual is transporting; and

1315 (c) indicates the departure and arrival times and locations of the individual transporting  
1316 the cannabis, cannabis product, or medical cannabis device.

1317 (3) In addition to the requirements in Subsections (1) and (2), the department may  
1318 establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1319 Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical  
1320 cannabis device that are related to safety for human cannabis or cannabis product consumption.

1321 (4) An individual who transports cannabis, a cannabis product, or a medical cannabis  
1322 device with a manifest that does not meet the requirements of Subsection (2) is:

1323 (a) guilty of an infraction; and

1324 (b) subject to a \$100 fine.

1325 Section 54. Section **26-61a-506** is enacted to read:

1326 **26-61a-506. Local control.**

1327 (1) A municipality or county may not enact a zoning ordinance that prohibits a

1328 cannabis dispensary from operating in a location within the municipality's or county's  
1329 jurisdiction on the sole basis that the cannabis dispensary is a cannabis dispensary.

1330 (2) A municipality or county may not deny or revoke a permit or license to operate a  
1331 cannabis dispensary on the sole basis that the applicant or cannabis dispensary violates a law of  
1332 the United States.

1333 (3) A municipality or county may enact ordinances not in conflict with this chapter  
1334 governing the time, place, and manner of cannabis dispensary operations in the municipality or  
1335 county.

1336 Section 55. Section **26-61a-601** is enacted to read:

1337 **Part 6. Enforcement**

1338 **26-61a-601. Enforcement -- Fine -- Citation.**

1339 (1) The department may, for a violation of this chapter by a person who is a cannabis  
1340 dispensary or cannabis dispensary agent:

- 1341 (a) revoke the person's license or cannabis dispensary agent registration card;
- 1342 (b) refuse to renew the person's license or cannabis dispensary agent registration card;

1343 or

- 1344 (c) assess the person an administrative penalty.

1345 (2) The department shall deposit an administrative penalty imposed under this section  
1346 into the General Fund.

1347 (3) The department may, for a person subject to an uncontested citation, a stipulated  
1348 settlement, or a finding of a violation in an adjudicative proceeding under this section:

- 1349 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to  
1350 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance  
1351 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

- 1352 (b) order the person to cease and desist from the action that creates a violation.

1353 (4) The department may not revoke a cannabis dispensary's license without first  
1354 directing the cannabis dispensary to appear before an adjudicative proceeding conducted under  
1355 Title 63G, Chapter 4, Administrative Procedures Act.

1356 (5) If, within 20 calendar days after the day on which the department issues a citation  
1357 for a violation of this chapter, the person that is the subject of the citation fails to request a  
1358 hearing to contest the citation, the citation becomes the department's final order.

1359 (6) The department may, for a person who fails to comply with a citation under this  
1360 section:

1361 (a) refuse to issue or renew the person's license or cannabis dispensary agent  
1362 registration card; or

1363 (b) suspend, revoke, or place on probation the person's license or cannabis dispensary  
1364 agent registration card.

1365 (7) If the department makes a final determination under this section that an individual  
1366 violated a provision of this chapter, the individual is guilty of an infraction.

1367 Section 56. Section **26-61a-602** is enacted to read:

1368 **26-61a-602. Report.**

1369 (1) The department shall report annually to the Health and Human Services Interim  
1370 Committee on the number of applications and renewal applications filed for medical cannabis  
1371 cards, the number of qualifying patients and designated caregivers, the nature of the debilitating  
1372 medical conditions of the qualifying patients, the age and county of residence of cardholders,  
1373 the number of medical cannabis cards revoked, the number of practitioners providing  
1374 recommendations for qualifying patients, the number of license applications and renewal  
1375 license applications received, the number of licenses issued in each county, the number of  
1376 licenses revoked, and the expenses incurred and revenues generated from the medical cannabis  
1377 program.

1378 (2) The department may not include personally identifying information in the report.

1379 Section 57. Section **30-3-10** is amended to read:

1380 **30-3-10. Custody of children in case of separation or divorce -- Custody**  
1381 **consideration.**

1382 (1) If a husband and wife having minor children are separated, or their marriage is  
1383 declared void or dissolved, the court shall make an order for the future care and custody of the  
1384 minor children as it considers appropriate.

1385 (a) In determining any form of custody, including a change in custody, the court shall  
1386 consider the best interests of the child without preference for either the mother or father solely  
1387 because of the biological sex of the parent and, among other factors the court finds relevant, the  
1388 following:

1389 (i) the past conduct and demonstrated moral standards of each of the parties;

- 1390 (ii) which parent is most likely to act in the best interest of the child, including  
1391 allowing the child frequent and continuing contact with the noncustodial parent;
- 1392 (iii) the extent of bonding between the parent and child, meaning the depth, quality,  
1393 and nature of the relationship between a parent and child;
- 1394 (iv) whether the parent has intentionally exposed the child to pornography or material  
1395 harmful to a minor, as defined in Section 76-10-1201; and
- 1396 (v) those factors outlined in Section 30-3-10.2.
- 1397 (b) There shall be a rebuttable presumption that joint legal custody, as defined in  
1398 Section 30-3-10.1, is in the best interest of the child, except in cases where there is:
- 1399 (i) domestic violence in the home or in the presence of the child;
- 1400 (ii) special physical or mental needs of a parent or child, making joint legal custody  
1401 unreasonable;
- 1402 (iii) physical distance between the residences of the parents, making joint decision  
1403 making impractical in certain circumstances; or
- 1404 (iv) any other factor the court considers relevant including those listed in this section  
1405 and Section 30-3-10.2.
- 1406 (c) The person who desires joint legal custody shall file a proposed parenting plan in  
1407 accordance with Sections 30-3-10.8 and 30-3-10.9. A presumption for joint legal custody may  
1408 be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of  
1409 the child.
- 1410 (d) The children may not be required by either party to testify unless the trier of fact  
1411 determines that extenuating circumstances exist that would necessitate the testimony of the  
1412 children be heard and there is no other reasonable method to present their testimony.
- 1413 (e) The court may inquire of the children and take into consideration the children's  
1414 desires regarding future custody or parent-time schedules, but the expressed desires are not  
1415 controlling and the court may determine the children's custody or parent-time otherwise. The  
1416 desires of a child 14 years of age or older shall be given added weight, but is not the single  
1417 controlling factor.
- 1418 (f) If interviews with the children are conducted by the court pursuant to Subsection  
1419 (1)(e), they shall be conducted by the judge in camera. The prior consent of the parties may be  
1420 obtained but is not necessary if the court finds that an interview with the children is the only

1421 method to ascertain the child's desires regarding custody.

1422 (2) In awarding custody, the court shall consider, among other factors the court finds  
1423 relevant, which parent is most likely to act in the best interests of the child, including allowing  
1424 the child frequent and continuing contact with the noncustodial parent as the court finds  
1425 appropriate.

1426 (3) If the court finds that one parent does not desire custody of the child, the court shall  
1427 take that evidence into consideration in determining whether to award custody to the other  
1428 parent.

1429 (4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a  
1430 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining  
1431 whether a substantial change has occurred for the purpose of modifying an award of custody.

1432 (b) If a court takes a parent's disability into account in awarding custody or determining  
1433 whether a substantial change has occurred for the purpose of modifying an award of custody,  
1434 the parent with a disability may rebut any evidence, presumption, or inference arising from the  
1435 disability by showing that:

1436 (i) the disability does not significantly or substantially inhibit the parent's ability to  
1437 provide for the physical and emotional needs of the child at issue; and

1438 (ii) the parent with a disability has sufficient human, monetary, or other resources  
1439 available to supplement the parent's ability to provide for the physical and emotional needs of  
1440 the child at issue.

1441 (c) Nothing in this section may be construed to apply to adoption proceedings under  
1442 Title 78B, Chapter 6, Part 1, Utah Adoption Act.

1443 (5) This section establishes neither a preference nor a presumption for or against joint  
1444 physical custody or sole physical custody, but allows the court and the family the widest  
1445 discretion to choose a parenting plan that is in the best interest of the child.

1446 ~~[(6) In considering the past conduct and demonstrated moral standards of each of the~~  
1447 ~~parties as described under Subsection (1)(a)(i), a court may not discriminate against a parent~~  
1448 ~~because of the parent's possession or consumption of cannabis, a cannabis product, or a~~  
1449 ~~medical cannabis device, in accordance with Title 26, Chapter 60b, Medical Cannabis Act, or~~  
1450 ~~because of the parent's status as a cannabis production establishment agent in accordance with~~  
1451 ~~Title 4, Chapter 41b, a cannabis dispensary agent in accordance with Title 26, Chapter 60b, or a~~

1452 ~~medical cannabis card holder in accordance with Title 26, Chapter 60b.]~~

1453 Section 58. Section **58-37-3.10** is enacted to read:

1454 **58-37-3.10. Exemption for possession or use of cannabis to treat a qualifying**  
1455 **illness.**

1456 (1) As used in this section:

1457 (a) "Cannabis" means marijuana.

1458 (b) "Cannabis dispensary" means the same as that term is defined in Section  
1459 26-61a-102.

1460 (c) "Cannabis product" means a product that:

1461 (i) is intended for human ingestion; and

1462 (ii) contains cannabis or tetrahydrocannabinol.

1463 (d) "Designated caregiver" means the same as that term is defined in Section  
1464 26-61a-102.

1465 (e) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

1466 (f) "Marijuana" means the same as that term is defined in Section 58-37-2.

1467 (g) "Medical cannabis card" means the same as that term is defined in Section  
1468 26-61a-102.

1469 (h) (i) "Medical cannabis device" means a device that an individual uses to ingest  
1470 cannabis or a cannabis product.

1471 (ii) "Medical cannabis device" does not include a device that facilitates cannabis  
1472 combustion at a temperature of greater than 750 degrees Fahrenheit.

1473 (i) "Qualifying illness" means the same as that term is defined in Section 26-61a-102.

1474 (j) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the  
1475 description in Subsection 58-37-4(2)(a)(iii)(AA).

1476 (2) Notwithstanding any other provision of law, except as otherwise provided in this  
1477 section:

1478 (a) an individual who possesses, produces, manufactures, dispenses, distributes, sells,  
1479 or offers to sell cannabis or a cannabis product or who possesses with intent to produce,  
1480 manufacture, dispense, distribute, sell, or offer to sell cannabis or a cannabis product is not  
1481 subject to the penalties described in this title for the conduct to the extent that the individual's  
1482 conduct complies with:

- 1483 (i) Title 4, Chapter 41a, Cannabis Production Establishments; and  
1484 (ii) Title 26, Chapter 61a, Medical Cannabis Act; and  
1485 (b) an individual who possesses, manufactures, distributes, sells, or offers to sell a  
1486 medical cannabis device or who possesses with intent to manufacture, distribute, sell, or offer  
1487 to sell a medical cannabis device is authorized and is not subject to the penalties described in  
1488 this title for the possession, manufacture, distribution, sale, or offer for sale of drug  
1489 paraphernalia to the extent that the individual's conduct complies with:  
1490 (i) Title 4, Chapter 41a, Cannabis Production Establishments; and  
1491 (ii) Title 26, Chapter 61a, Medical Cannabis Act.  
1492 (3) For purposes of state law, except as otherwise provided in this section, activities  
1493 related to cannabis shall be considered lawful and any cannabis consumed shall be considered  
1494 legally ingested, as long as the conduct is in accordance with:  
1495 (a) Title 4, Chapter 41a, Cannabis Production Establishment; and  
1496 (b) Title 26, Chapter 61a, Medical Cannabis Act.  
1497 (4) It is not lawful for a medical cannabis card holder to smoke cannabis or to use a  
1498 device to facilitate the smoking of cannabis. An individual convicted of violating this section is  
1499 guilty of an infraction. For purposes of this section, smoking does not include a means of  
1500 administration that involves cannabis combustion at a temperature that is not greater than 750  
1501 degrees Fahrenheit and that does not involve using a flame.  
1502 (5) An individual is not exempt from the penalties described in this title for ingesting  
1503 cannabis or a cannabis product while operating a motor vehicle.  
1504 (6) An individual who is assessed a penalty or convicted of an infraction under Title 4,  
1505 Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Medical Cannabis  
1506 Act, is not subject to the penalties described in this chapter for:  
1507 (a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis  
1508 product; or  
1509 (b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.  
1510 Section 59. Section **58-37-3.11** is enacted to read:  
1511 **58-37-3.11. Affirmative defense.**  
1512 (1) Before July 1, 2023, it is an affirmative defense to criminal charges against an  
1513 individual for the use, possession, or manufacture of marijuana, tetrahydrocannabinol, or

1514 marijuana drug paraphernalia under this chapter that the individual would be eligible for a  
1515 medical cannabis card, and that the individuals conduct would have been lawful, after July 1,  
1516 2023.

1517 (2) It is an affirmative defense to criminal charges against an individual for the use or  
1518 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this  
1519 chapter if:

1520 (a) the individual is a not a resident of Utah or has been a resident of Utah for less than  
1521 45 days and was issued a currently valid medical cannabis identification card or its equivalent  
1522 under the laws of another state, district, territory, commonwealth, or insular possession of the  
1523 United States; and

1524 (b) the individual has been diagnosed with a qualifying illness as described in Section  
1525 26-61a-105.

1526 (3) A court shall, for charges that the court dismisses under Subsection (1) or (2),  
1527 dismiss the charges without prejudice.

1528 Section 60. Section **58-37-3.12** is enacted to read:

1529 **58-37-3.12. Enforcement.**

1530 (1) No law enforcement officer employed by an agency that receives state or local  
1531 government funds shall expend any state or local resources, including the officer's time, to  
1532 effect any arrest or seizure of cannabis, or conduct any investigation, on the sole basis of  
1533 activity the officer believes to constitute a violation of federal law if the officer has reason to  
1534 believe that such activity is in compliance with the state medical cannabis laws, nor shall any  
1535 such officer expend any state or local resources, including the officer's time, to provide any  
1536 information or logistical support related to such activity to any federal law enforcement  
1537 authority or prosecuting entity.

1538 (2) No agency or political subdivision of Utah may rely on a violation of federal law as  
1539 the sole basis for taking an adverse action against a person providing professional services to a  
1540 cannabis dispensary or a cannabis production establishment if the person has not violated the  
1541 state medical cannabis laws.

1542 Section 61. Section **59-12-104.10** is enacted to read:

1543 **59-12-104.10. Exemption from sales tax for medical cannabis.**

1544 (1) As used in this section:

- 1545 (a) "Cannabis" means the same as that term is defined in Section 58-37-3.8.
- 1546 (b) "Cannabis dispensary" means the same as that term is defined in Section
- 1547 26-61a-102.
- 1548 (c) "Cannabis product" means the same as that term is defined in Section 58-37-3.8.
- 1549 (d) "Medical cannabis device" means the same as that term is defined in Section
- 1550 58-37-3.8.

1551 (2) In addition to the exemptions described in Section 59-12-104, the sale, by a  
 1552 licensed cannabis dispensary, of cannabis, a cannabis product, or a medical cannabis device, is  
 1553 not subject to the taxes imposed by this chapter.

1554 Section 62. Section **62A-4a-202.1** is amended to read:

1555 **62A-4a-202.1. Entering home of a child -- Taking a child into protective custody**  
 1556 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or**  
 1557 **emergency placement.**

1558 (1) A peace officer or child welfare worker may not:

1559 (a) enter the home of a child who is not under the jurisdiction of the court, remove a  
 1560 child from the child's home or school, or take a child into protective custody unless authorized  
 1561 under Subsection 78A-6-106(2); or

1562 (b) remove a child from the child's home or take a child into custody under this section  
 1563 solely on the basis of~~[(i)]~~ educational neglect, truancy, or failure to comply with a court order  
 1564 to attend school~~[-or]~~.

1565 ~~[(ii) the possession or use of cannabis, a cannabis product, or a medical cannabis~~  
 1566 ~~device in the home, if the use and possession of the cannabis, cannabis product, or medical~~  
 1567 ~~cannabis device is in compliance with Title 26, Chapter 60b, Medical Cannabis Act.]~~

1568 (2) A child welfare worker within the division may take action under Subsection ~~[(10)]~~  
 1569 (1) accompanied by a peace officer, or without a peace officer when a peace officer is not  
 1570 reasonably available.

1571 (3) (a) If possible, consistent with the child's safety and welfare, before taking a child  
 1572 into protective custody, the child welfare worker shall also determine whether there are  
 1573 services available that, if provided to a parent or guardian of the child, would eliminate the  
 1574 need to remove the child from the custody of the child's parent or guardian.

1575 (b) If the services described in Subsection (3)(a) are reasonably available, they shall be

1576 utilized.

1577 (c) In determining whether the services described in Subsection (3)(a) are reasonably  
1578 available, and in making reasonable efforts to provide those services, the child's health, safety,  
1579 and welfare shall be the child welfare worker's paramount concern.

1580 (4) (a) A child removed or taken into custody under this section may not be placed or  
1581 kept in a secure detention facility pending court proceedings unless the child is detainable  
1582 based on guidelines promulgated by the Division of Juvenile Justice Services.

1583 (b) A child removed from the custody of the child's parent or guardian but who does  
1584 not require physical restriction shall be given temporary care in:

1585 (i) a shelter facility; or

1586 (ii) an emergency placement in accordance with Section [62A-4a-209](#).

1587 (c) When making a placement under Subsection (4)(b), the Division of Child and  
1588 Family Services shall give priority to a placement with a noncustodial parent, relative, or  
1589 friend, in accordance with Section [62A-4a-209](#).

1590 ~~(a)~~ (d) If the child is not placed with a noncustodial parent, a relative, or a designated  
1591 friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor  
1592 explaining why a different placement was in the child's best interest.

1593 (5) When a child is removed from the child's home or school or taken into protective  
1594 custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

1595 (a) the parent's rights under this part, including the right to be present and participate in  
1596 any court proceeding relating to the child's case;

1597 (b) that it may be in the parent's best interest to contact an attorney and that, if the  
1598 parent cannot afford an attorney, the court will appoint one;

1599 (c) the name and contact information of a division employee the parent may contact  
1600 with questions;

1601 (d) resources that are available to the parent, including:

1602 (i) mental health resources;

1603 (ii) substance abuse resources; and

1604 (iii) parenting classes; and

1605 (e) any other information considered relevant by the division.

1606 (6) The pamphlet or flier described in Subsection (5) shall be:

1607 (a) evaluated periodically for its effectiveness at conveying necessary information and  
1608 revised accordingly;

1609 (b) written in simple, easy-to-understand language; and

1610 (c) available in English and other languages as the division determines to be  
1611 appropriate and necessary.

1612 Section 63. Section **78A-6-508 (Superseded 07/01/19)** is amended to read:

1613 **78A-6-508 (Superseded 07/01/19). Evidence of grounds for termination.**

1614 (1) In determining whether a parent or parents have abandoned a child, it is prima facie  
1615 evidence of abandonment that the parent or parents:

1616 (a) although having legal custody of the child, have surrendered physical custody of the  
1617 child, and for a period of six months following the surrender have not manifested to the child  
1618 or to the person having the physical custody of the child a firm intention to resume physical  
1619 custody or to make arrangements for the care of the child;

1620 (b) have failed to communicate with the child by mail, telephone, or otherwise for six  
1621 months;

1622 (c) failed to have shown the normal interest of a natural parent, without just cause; or

1623 (d) have abandoned an infant, as described in Subsection [78A-6-316\(1\)](#).

1624 (2) In determining whether a parent or parents are unfit or have neglected a child the  
1625 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

1626 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the  
1627 parent unable to care for the immediate and continuing physical or emotional needs of the child  
1628 for extended periods of time;

1629 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive  
1630 nature;

1631 (c) habitual or excessive use of intoxicating liquors, controlled substances, or  
1632 dangerous drugs that render the parent unable to care for the child;

1633 (d) repeated or continuous failure to provide the child with adequate food, clothing,  
1634 shelter, education, or other care necessary for the child's physical, mental, and emotional health  
1635 and development by a parent or parents who are capable of providing that care;

1636 (e) whether the parent is incarcerated as a result of conviction of a felony, and the  
1637 sentence is of such length that the child will be deprived of a normal home for more than one

1638 year;

1639 (f) a history of violent behavior; or

1640 (g) whether the parent has intentionally exposed the child to pornography or material  
1641 harmful to a minor, as defined in Section 76-10-1201.

1642 [~~(3)~~] ~~Notwithstanding Subsection (2)(c), the court may not discriminate against a parent~~  
1643 ~~because of the parent's possession or consumption of cannabis, a cannabis product, or a~~  
1644 ~~medical cannabis device, in accordance with Title 26, Chapter 60b, Medical Cannabis Act.]~~

1645 [(4)] (3) A parent who, legitimately practicing the parent's religious beliefs, does not  
1646 provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit  
1647 parent.

1648 [(5)] (4) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful  
1649 or unfit because of a health care decision made for a child by the child's parent unless the state  
1650 or other party to the proceeding shows, by clear and convincing evidence, that the health care  
1651 decision is not reasonable and informed.

1652 (b) Nothing in Subsection [(5)(a)] (4)(a) may prohibit a parent from exercising the  
1653 right to obtain a second health care opinion.

1654 [(6)] (5) If a child has been placed in the custody of the division and the parent or  
1655 parents fail to comply substantially with the terms and conditions of a plan within six months  
1656 after the date on which the child was placed or the plan was commenced, whichever occurs  
1657 later, that failure to comply is evidence of failure of parental adjustment.

1658 [(7)] (6) The following circumstances constitute prima facie evidence of unfitness:

1659 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any  
1660 child, due to known or substantiated abuse or neglect by the parent or parents;

1661 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to  
1662 indicate the unfitness of the parent to provide adequate care to the extent necessary for the  
1663 child's physical, mental, or emotional health and development;

1664 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement  
1665 of the child;

1666 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to  
1667 commit murder or manslaughter of a child or child abuse homicide; or

1668 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent

1669 of the child, without legal justification.

1670 Section 64. Section **78A-6-508 (Effective 07/01/19)** is amended to read:

1671 **78A-6-508 (Effective 07/01/19). Evidence of grounds for termination.**

1672 (1) In determining whether a parent or parents have abandoned a child, it is prima facie  
1673 evidence of abandonment that the parent or parents:

1674 (a) although having legal custody of the child, have surrendered physical custody of the  
1675 child, and for a period of six months following the surrender have not manifested to the child  
1676 or to the person having the physical custody of the child a firm intention to resume physical  
1677 custody or to make arrangements for the care of the child;

1678 (b) have failed to communicate with the child by mail, telephone, or otherwise for six  
1679 months;

1680 (c) failed to have shown the normal interest of a natural parent, without just cause; or

1681 (d) have abandoned an infant, as described in Subsection [78A-6-316\(1\)](#).

1682 (2) In determining whether a parent or parents are unfit or have neglected a child the  
1683 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

1684 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the  
1685 parent unable to care for the immediate and continuing physical or emotional needs of the child  
1686 for extended periods of time;

1687 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive  
1688 nature;

1689 (c) habitual or excessive use of intoxicating liquors, controlled substances, or  
1690 dangerous drugs that render the parent unable to care for the child;

1691 (d) repeated or continuous failure to provide the child with adequate food, clothing,  
1692 shelter, education, or other care necessary for the child's physical, mental, and emotional health  
1693 and development by a parent or parents who are capable of providing that care;

1694 (e) whether the parent is incarcerated as a result of conviction of a felony, and the  
1695 sentence is of such length that the child will be deprived of a normal home for more than one  
1696 year;

1697 (f) a history of violent behavior; or

1698 (g) whether the parent has intentionally exposed the child to pornography or material  
1699 harmful to a minor, as defined in Section [76-10-1201](#).

1700           ~~[(3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent~~  
1701 ~~because of the parent's possession or consumption of cannabis, a cannabis product, or a~~  
1702 ~~medical cannabis device, in accordance with Title 26, Chapter 60b, Medical Cannabis Act.]~~

1703           [(4)] (3) A parent who, legitimately practicing the parent's religious beliefs, does not  
1704 provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit  
1705 parent.

1706           [(5)] (4) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful  
1707 or unfit because of a health care decision made for a child by the child's parent unless the state  
1708 or other party to the proceeding shows, by clear and convincing evidence, that the health care  
1709 decision is not reasonable and informed.

1710           (b) Nothing in Subsection [(5)] (4)(a) may prohibit a parent from exercising the right to  
1711 obtain a second health care opinion.

1712           [(6)] (5) If a child has been placed in the custody of the division and the parent or  
1713 parents fail to comply substantially with the terms and conditions of a plan within six months  
1714 after the date on which the child was placed or the plan was commenced, whichever occurs  
1715 later, that failure to comply is evidence of failure of parental adjustment.

1716           [(7)] (6) The following circumstances constitute prima facie evidence of unfitness:

1717           (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any  
1718 child, due to known or substantiated abuse or neglect by the parent or parents;

1719           (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to  
1720 indicate the unfitness of the parent to provide adequate care to the extent necessary for the  
1721 child's physical, mental, or emotional health and development;

1722           (c) a single incident of life-threatening or gravely disabling injury to or disfigurement  
1723 of the child;

1724           (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to  
1725 commit murder or manslaughter of a child or child abuse homicide; or

1726           (e) the parent intentionally, knowingly, or recklessly causes the death of another parent  
1727 of the child, without legal justification.

1728           Section 65. **Repealer.**

1729           This bill repeals:

1730           Section **4-41b-101**, Title.

- 1731 Section **4-41b-102**, **Definitions.**
- 1732 Section **4-41b-103**, **Inventory Control System.**
- 1733 Section **4-41b-104**, **Preemption.**
- 1734 Section **4-41b-201**, **Cannabis production establishment -- License.**
- 1735 Section **4-41b-202**, **Renewal.**
- 1736 Section **4-41b-203**, **Operating plan.**
- 1737 Section **4-41b-204**, **Number of licenses -- Cannabis cultivation facilities.**
- 1738 Section **4-41b-301**, **Cannabis production establishment agent -- Registration.**
- 1739 Section **4-41b-302**, **Cannabis production establishment -- Criminal background**
- 1740 **checks.**
- 1741 Section **4-41b-303**, **Cannabis production establishment agent registration card --**
- 1742 **Rebuttable presumption.**
- 1743 Section **4-41b-401**, **Cannabis production establishment -- General operating**
- 1744 **requirements.**
- 1745 Section **4-41b-402**, **Inspections.**
- 1746 Section **4-41b-403**, **Advertising.**
- 1747 Section **4-41b-404**, **Cannabis, cannabis product, or medical cannabis device**
- 1748 **transportation.**
- 1749 Section **4-41b-405**, **Local control.**
- 1750 Section **4-41b-501**, **Cannabis cultivation facility -- Operating requirements.**
- 1751 Section **4-41b-502**, **Cannabis -- Labeling and packaging.**
- 1752 Section **4-41b-601**, **Cannabis processing facility -- Operating requirements --**
- 1753 **General.**
- 1754 Section **4-41b-602**, **Cannabis product -- Labeling and packaging.**
- 1755 Section **4-41b-603**, **Cannabis product -- Product quality.**
- 1756 Section **4-41b-701**, **Cannabis and cannabis product testing.**
- 1757 Section **4-41b-702**, **Reporting -- Inspections -- Seizure by the department.**
- 1758 Section **4-41b-801**, **Enforcement -- Fine -- Citation.**
- 1759 Section **4-41b-802**, **Report.**
- 1760 Section **26-60b-101**, **Title.**
- 1761 Section **26-60b-102**, **Definitions.**

- 1762 Section 26-60b-103, Electronic verification system.
- 1763 Section 26-60b-104, Preemption.
- 1764 Section 26-60b-105, Qualifying illness.
- 1765 Section 26-60b-106, Compassionate Use Board.
- 1766 Section 26-60b-107, Physician qualification.
- 1767 Section 26-60b-108, Standard of care -- Medical practitioners not liable -- No
- 1768 **private right of action.**
- 1769 Section 26-60b-109, Medical Cannabis Restricted Account -- Creation.
- 1770 Section 26-60b-110, Nondiscrimination for use of cannabis, a cannabis product, or
- 1771 **a medical cannabis device.**
- 1772 Section 26-60b-201, Medical cannabis card -- Application -- Fees -- Database.
- 1773 Section 26-60b-202, Medical cannabis card --- Designated caregiver -- Registration
- 1774 **-- Renewal -- Revocation.**
- 1775 Section 26-60b-203, Designated caregiver -- Criminal background check.
- 1776 Section 26-60b-204, Medical cannabis card -- Patient and designated caregiver
- 1777 **requirements -- Rebuttable presumption.**
- 1778 Section 26-60b-301, Cannabis dispensary -- License -- Eligibility.
- 1779 Section 26-60b-302, Renewal.
- 1780 Section 26-60b-303, Operating plan.
- 1781 Section 26-60b-304, Maximum number of licenses.
- 1782 Section 26-60b-401, Cannabis dispensary agent -- Registration.
- 1783 Section 26-60b-402, Cannabis dispensary agents -- Criminal background checks.
- 1784 Section 26-60b-403, Cannabis dispensary agent registration card -- Rebuttable
- 1785 **presumption.**
- 1786 Section 26-60b-501, Operating requirements -- General.
- 1787 Section 26-60b-502, Dispensing -- Amount a cannabis dispensary may dispense --
- 1788 **Reporting -- Form of cannabis or cannabis product.**
- 1789 Section 26-60b-503, Inspections.
- 1790 Section 26-60b-504, Advertising.
- 1791 Section 26-60b-505, Cannabis, cannabis product, or medical cannabis device
- 1792 **transportation.**

- 1793 Section [26-60b-506](#), **Local control.**
- 1794 Section [26-60b-601](#), **Enforcement -- Fine -- Citation.**
- 1795 Section [26-60b-602](#), **Report.**
- 1796 Section [58-37-3.7](#), **Exemption for possession or use of cannabis to treat a qualifying**
- 1797 **illness.**
- 1798 Section [58-37-3.8](#), **Affirmative defense.**
- 1799 Section [58-37-3.9](#), **Enforcement.**
- 1800 Section [59-12-104.7](#) (Repealed 01/01/19), **Reporting by purchaser of certain sales**
- 1801 **and use tax exempt purchases.**
- 1802 Section 66. **Effective date.**
- 1803 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members
- 1804 elected to each house, this bill takes effect upon approval by the governor, or the day following
- 1805 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
- 1806 signature, or in the case of a veto, the date of veto override.
- 1807 (2) The amendments to the following sections in this bill take effect on July 1, 2022:
- 1808 (a) Section [4-41a-101](#);
- 1809 (b) Section [4-41a-102](#);
- 1810 (c) Section [4-41a-103](#);
- 1811 (d) Section [4-41a-104](#);
- 1812 (e) Section [4-41a-201](#);
- 1813 (f) Section [4-41a-202](#);
- 1814 (g) Section [4-41a-203](#);
- 1815 (h) Section [4-41a-204](#);
- 1816 (i) Section [4-41a-301](#);
- 1817 (j) Section [4-41a-302](#);
- 1818 (k) Section [4-41a-303](#);
- 1819 (l) Section [4-41a-401](#);
- 1820 (m) Section [4-41a-402](#);
- 1821 (n) Section [4-41a-403](#);
- 1822 (o) Section [4-41a-404](#);
- 1823 (p) Section [4-41a-405](#);

- 1824        (q) Section 4-41a-501;
- 1825        (r) Section 4-41a-502;
- 1826        (s) Section 4-41a-601;
- 1827        (t) Section 4-41a-602;
- 1828        (u) Section 4-41a-603;
- 1829        (v) Section 4-41a-701;
- 1830        (w) Section 4-41a-702;
- 1831        (x) Section 4-41a-801;
- 1832        (y) Section 4-41a-802;
- 1833        (z) Section 26-61a-101;
- 1834        (aa) Section 26-61a-102;
- 1835        (bb) Section 26-61a-103;
- 1836        (cc) Section 26-61a-104;
- 1837        (dd) Section 26-61a-105;
- 1838        (ee) Section 26-61a-106;
- 1839        (ff) Section 26-61a-107;
- 1840        (gg) Section 26-61a-108;
- 1841        (hh) Section 26-61a-109;
- 1842        (ii) Section 26-61a-110;
- 1843        (jj) Section 26-61a-201;
- 1844        (kk) Section 26-61a-202;
- 1845        (ll) Section 26-61a-203;
- 1846        (mm) Section 26-61a-204;
- 1847        (nn) Section 26-61a-301;
- 1848        (oo) Section 26-61a-302;
- 1849        (pp) Section 26-61a-303;
- 1850        (qq) Section 26-61a-304;
- 1851        (rr) Section 26-61a-401;
- 1852        (ss) Section 26-61a-402;
- 1853        (tt) Section 26-61a-403;
- 1854        (uu) Section 26-61a-501;

1855 (vv) Section 26-61a-502;  
 1856 (ww) Section 26-61a-503;  
 1857 (xx) Section 26-61a-504;  
 1858 (yy) Section 26-61a-505;  
 1859 (zz) Section 26-61a-506;  
 1860 (aaa) Section 26-61a-601;  
 1861 (bbb) Section 26-61a-602;  
 1862 (ccc) Section 58-37-3.10;  
 1863 (ddd) Section 58-37-3.11;  
 1864 (eee) Section 58-37-3.12; and  
 1865 (fff) Section 59-12-104.10.

1866 Section 67. **Revisor instructions.**

1867 The Legislature intends that the Office of Legislative Research and General Counsel, in  
 1868 preparing the Utah Code database for publication, replace the language in Sections 10-9a-104,  
 1869 17-27a-104, 30-3-10, 62A-4a-202.1, and 78A-6-508 with the following language on July 1,  
 1870 2022:

1871 **"10-9a-104. Stricter requirements or higher standards.**

1872 (1) Except as provided in Subsection (2), a municipality may enact an ordinance  
 1873 imposing stricter requirements or higher standards than are required by this chapter or by:

1874 (a) Section 4-41a-405; or

1875 (b) Section 26-61a-506.

1876 (2) A municipality may not impose stricter requirements or higher standards than are  
 1877 required by:

1878 [~~(a) Section 4-41b-405;~~]

1879 [~~(b)~~] (a) Section 10-9a-305; or

1880 [~~(c)~~] (b) Section 10-9a-514[; and].

1881 [~~(d) Section 26-60b-506;]~~]"

1882 **"17-27a-104. Stricter requirements or higher standards.**

1883 (1) Except as provided in Subsection (2), a county may enact an ordinance imposing  
 1884 stricter requirements or higher standards than are required by this chapter[;] or by:

1885 (a) Section 4-41a-405; or

1886 (b) Section 26-61a-506.

1887 (2) A county may not impose stricter requirements or higher standards than are  
1888 required by:

1889 [~~(a) Section 4-41b-405;~~]

1890 [~~(b)~~] (a) Section 17-27a-305; or

1891 [~~(c)~~] (b) Section 17-27a-513[~~;~~and].

1892 [~~(d) Section 26-60b-506;]~~"]

1893 **30-3-10. Custody of children in case of separation or divorce -- Custody**  
1894 **consideration.**

1895 (1) If a husband and wife having minor children are separated, or their marriage is  
1896 declared void or dissolved, the court shall make an order for the future care and custody of the  
1897 minor children as it considers appropriate.

1898 (a) In determining any form of custody, including a change in custody, the court shall  
1899 consider the best interests of the child without preference for either the mother or father solely  
1900 because of the biological sex of the parent and, among other factors the court finds relevant, the  
1901 following:

1902 (i) the past conduct and demonstrated moral standards of each of the parties;

1903 (ii) which parent is most likely to act in the best interest of the child, including  
1904 allowing the child frequent and continuing contact with the noncustodial parent;

1905 (iii) the extent of bonding between the parent and child, meaning the depth, quality,  
1906 and nature of the relationship between a parent and child;

1907 (iv) whether the parent has intentionally exposed the child to pornography or material  
1908 harmful to a minor, as defined in Section 76-10-1201; and

1909 (v) those factors outlined in Section 30-3-10.2.

1910 (b) There shall be a rebuttable presumption that joint legal custody, as defined in  
1911 Section 30-3-10.1, is in the best interest of the child, except in cases where there is:

1912 (i) domestic violence in the home or in the presence of the child;

1913 (ii) special physical or mental needs of a parent or child, making joint legal custody  
1914 unreasonable;

1915 (iii) physical distance between the residences of the parents, making joint decision  
1916 making impractical in certain circumstances; or

1917 (iv) any other factor the court considers relevant including those listed in this section  
1918 and Section 30-3-10.2.

1919 (c) The person who desires joint legal custody shall file a proposed parenting plan in  
1920 accordance with Sections 30-3-10.8 and 30-3-10.9. A presumption for joint legal custody may  
1921 be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of  
1922 the child.

1923 (d) The children may not be required by either party to testify unless the trier of fact  
1924 determines that extenuating circumstances exist that would necessitate the testimony of the  
1925 children be heard and there is no other reasonable method to present their testimony.

1926 (e) The court may inquire of the children and take into consideration the children's  
1927 desires regarding future custody or parent-time schedules, but the expressed desires are not  
1928 controlling and the court may determine the children's custody or parent-time otherwise. The  
1929 desires of a child 14 years of age or older shall be given added weight, but is not the single  
1930 controlling factor.

1931 (f) If interviews with the children are conducted by the court pursuant to Subsection  
1932 (1)(e), they shall be conducted by the judge in camera. The prior consent of the parties may be  
1933 obtained but is not necessary if the court finds that an interview with the children is the only  
1934 method to ascertain the child's desires regarding custody.

1935 (2) In awarding custody, the court shall consider, among other factors the court finds  
1936 relevant, which parent is most likely to act in the best interests of the child, including allowing  
1937 the child frequent and continuing contact with the noncustodial parent as the court finds  
1938 appropriate.

1939 (3) If the court finds that one parent does not desire custody of the child, the court shall  
1940 take that evidence into consideration in determining whether to award custody to the other  
1941 parent.

1942 (4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a  
1943 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining  
1944 whether a substantial change has occurred for the purpose of modifying an award of custody.

1945 (b) If a court takes a parent's disability into account in awarding custody or determining  
1946 whether a substantial change has occurred for the purpose of modifying an award of custody,  
1947 the parent with a disability may rebut any evidence, presumption, or inference arising from the

1948 disability by showing that:

1949 (i) the disability does not significantly or substantially inhibit the parent's ability to  
1950 provide for the physical and emotional needs of the child at issue; and

1951 (ii) the parent with a disability has sufficient human, monetary, or other resources  
1952 available to supplement the parent's ability to provide for the physical and emotional needs of  
1953 the child at issue.

1954 (c) Nothing in this section may be construed to apply to adoption proceedings under  
1955 Title 78B, Chapter 6, Part 1, Utah Adoption Act.

1956 (5) This section establishes neither a preference nor a presumption for or against joint  
1957 physical custody or sole physical custody, but allows the court and the family the widest  
1958 discretion to choose a parenting plan that is in the best interest of the child.

1959 (6) In considering the past conduct and demonstrated moral standards of each of the  
1960 parties as described under Subsection (1)(a)(i), a court may not discriminate against a parent  
1961 because of the parent's possession or consumption of cannabis, a cannabis product, or a  
1962 medical cannabis device, in accordance with Title 26, Chapter 61a, Medical Cannabis Act, or  
1963 because of the parent's status as a cannabis production establishment agent in accordance with  
1964 Title 4, Chapter 41a, Cannabis Production Establishments, a cannabis dispensary agent in  
1965 accordance with Title 26, Chapter 61a, Medical Cannabis Act, or a medical cannabis card  
1966 holder in accordance with Title 26, Chapter 61a, Medical Cannabis Act."

1967 **"62A-4a-202.1. Entering home of a child -- Taking a child into protective custody**  
1968 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or**  
1969 **emergency placement.**

1970 (1) A peace officer or child welfare worker may not:

1971 (a) enter the home of a child who is not under the jurisdiction of the court, remove a  
1972 child from the child's home or school, or take a child into protective custody unless authorized  
1973 under Subsection [78A-6-106\(2\)](#); or

1974 (b) remove a child from the child's home or take a child into custody under this section  
1975 solely on the basis of:

1976 (i) educational neglect, truancy, or failure to comply with a court order to attend  
1977 school; or

1978 (ii) the possession or use of cannabis, a cannabis product, or a medical cannabis device

1979 in the home, if the use and possession of the cannabis, cannabis product, or medical cannabis  
1980 device is in compliance with Title 26, Chapter ~~[60b]~~ 61a, Medical Cannabis Act.

1981 (2) A child welfare worker within the division may take action under Subsection ~~[(+0)]~~  
1982 (1) accompanied by a peace officer, or without a peace officer when a peace officer is not  
1983 reasonably available.

1984 (3) (a) If possible, consistent with the child's safety and welfare, before taking a child  
1985 into protective custody, the child welfare worker shall also determine whether there are  
1986 services available that, if provided to a parent or guardian of the child, would eliminate the  
1987 need to remove the child from the custody of the child's parent or guardian.

1988 (b) If the services described in Subsection (3)(a) are reasonably available, they shall be  
1989 utilized.

1990 (c) In determining whether the services described in Subsection (3)(a) are reasonably  
1991 available, and in making reasonable efforts to provide those services, the child's health, safety,  
1992 and welfare shall be the child welfare worker's paramount concern.

1993 (4) (a) A child removed or taken into custody under this section may not be placed or  
1994 kept in a secure detention facility pending court proceedings unless the child is detainable  
1995 based on guidelines promulgated by the Division of Juvenile Justice Services.

1996 (b) A child removed from the custody of the child's parent or guardian but who does  
1997 not require physical restriction shall be given temporary care in:

1998 (i) a shelter facility; or

1999 (ii) an emergency placement in accordance with Section [62A-4a-209](#).

2000 (c) When making a placement under Subsection (4)(b), the Division of Child and  
2001 Family Services shall give priority to a placement with a noncustodial parent, relative, or  
2002 friend, in accordance with Section [62A-4a-209](#).

2003 ~~[(a)]~~ (d) If the child is not placed with a noncustodial parent, a relative, or a designated  
2004 friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor  
2005 explaining why a different placement was in the child's best interest.

2006 (5) When a child is removed from the child's home or school or taken into protective  
2007 custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

2008 (a) the parent's rights under this part, including the right to be present and participate in  
2009 any court proceeding relating to the child's case;

2010 (b) that it may be in the parent's best interest to contact an attorney and that, if the  
2011 parent cannot afford an attorney, the court will appoint one;

2012 (c) the name and contact information of a division employee the parent may contact  
2013 with questions;

2014 (d) resources that are available to the parent, including:

2015 (i) mental health resources;

2016 (ii) substance abuse resources; and

2017 (iii) parenting classes; and

2018 (e) any other information considered relevant by the division.

2019 (6) The pamphlet or flier described in Subsection (5) shall be:

2020 (a) evaluated periodically for its effectiveness at conveying necessary information and  
2021 revised accordingly;

2022 (b) written in simple, easy-to-understand language; and

2023 (c) available in English and other languages as the division determines to be  
2024 appropriate and necessary."

2025 **78A-6-508. Evidence of grounds for termination.**

2026 (1) In determining whether a parent or parents have abandoned a child, it is prima facie  
2027 evidence of abandonment that the parent or parents:

2028 (a) although having legal custody of the child, have surrendered physical custody of the  
2029 child, and for a period of six months following the surrender have not manifested to the child  
2030 or to the person having the physical custody of the child a firm intention to resume physical  
2031 custody or to make arrangements for the care of the child;

2032 (b) have failed to communicate with the child by mail, telephone, or otherwise for six  
2033 months;

2034 (c) failed to have shown the normal interest of a natural parent, without just cause; or

2035 (d) have abandoned an infant, as described in Subsection [78A-6-316\(1\)](#).

2036 (2) In determining whether a parent or parents are unfit or have neglected a child the  
2037 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

2038 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the  
2039 parent unable to care for the immediate and continuing physical or emotional needs of the child  
2040 for extended periods of time;

2041 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive  
2042 nature;

2043 (c) habitual or excessive use of intoxicating liquors, controlled substances, or  
2044 dangerous drugs that render the parent unable to care for the child;

2045 (d) repeated or continuous failure to provide the child with adequate food, clothing,  
2046 shelter, education, or other care necessary for the child's physical, mental, and emotional health  
2047 and development by a parent or parents who are capable of providing that care;

2048 (e) whether the parent is incarcerated as a result of conviction of a felony, and the  
2049 sentence is of such length that the child will be deprived of a normal home for more than one  
2050 year;

2051 (f) a history of violent behavior; or

2052 (g) whether the parent has intentionally exposed the child to pornography or material  
2053 harmful to a minor, as defined in Section 76-10-1201.

2054 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent  
2055 because of the parent's possession or consumption of cannabis, a cannabis product, or a  
2056 medical cannabis device, in accordance with Title 26, Chapter ~~60b~~ 61a, Medical Cannabis  
2057 Act.

2058 (4) A parent who, legitimately practicing the parent's religious beliefs, does not provide  
2059 specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

2060 (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or  
2061 unfit because of a health care decision made for a child by the child's parent unless the state or  
2062 other party to the proceeding shows, by clear and convincing evidence, that the health care  
2063 decision is not reasonable and informed.

2064 (b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to  
2065 obtain a second health care opinion.

2066 (6) If a child has been placed in the custody of the division and the parent or parents  
2067 fail to comply substantially with the terms and conditions of a plan within six months after the  
2068 date on which the child was placed or the plan was commenced, whichever occurs later, that  
2069 failure to comply is evidence of failure of parental adjustment.

2070 (7) The following circumstances constitute prima facie evidence of unfitness:

2071 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any

2072 child, due to known or substantiated abuse or neglect by the parent or parents;

2073           (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to  
2074 indicate the unfitness of the parent to provide adequate care to the extent necessary for the  
2075 child's physical, mental, or emotional health and development;

2076           (c) a single incident of life-threatening or gravely disabling injury to or disfigurement  
2077 of the child;

2078           (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to  
2079 commit murder or manslaughter of a child or child abuse homicide; or

2080           (e) the parent intentionally, knowingly, or recklessly causes the death of another parent  
2081 of the child, without legal justification."