

**Senator Jim Dabakis** proposes the following substitute bill:

**UTAH 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 amends the Medical Cannabis Act to decriminalize cannabis use for medical cannabis cardholders.

**Highlighted Provisions:**

This bill:

- ▶ repeals provisions of the medical cannabis initiative regarding cannabis production and medical cannabis pharmacies;
- ▶ provides for decriminalization of cannabis use and possession for medical cannabis cardholders; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**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



- 26 **30-3-10**, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 27 **53-1-106.5**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 28 **58-37-3.7**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 29 **58-37-3.8**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 30 **58-37-3.9**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 31 **62A-4a-202.1**, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 32 **63I-2-226**, as last amended by Laws of Utah 2018, Chapters 38 and 281
- 33 **78A-6-508 (Superseded 07/01/19)**, as last amended by Laws of Utah 2014, Chapter
- 34 409
- 35 **78A-6-508 (Effective 07/01/19)**, as last amended by Laws of Utah 2018, Chapter 452
- 36 RENUMBERS AND AMENDS:
- 37 **26-61a-101**, (Renumbered from 26-60b-101, as enacted by Statewide Initiative --
- 38 Proposition 2, Nov. 6, 2018)
- 39 **26-61a-102**, (Renumbered from 26-60b-102, as enacted by Statewide Initiative --
- 40 Proposition 2, Nov. 6, 2018)
- 41 **26-61a-103**, (Renumbered from 26-60b-104, as enacted by Statewide Initiative --
- 42 Proposition 2, Nov. 6, 2018)
- 43 **26-61a-104**, (Renumbered from 26-60b-109, as enacted by Statewide Initiative --
- 44 Proposition 2, Nov. 6, 2018)
- 45 **26-61a-105**, (Renumbered from 26-60b-110, as enacted by Statewide Initiative --
- 46 Proposition 2, Nov. 6, 2018)
- 47 **26-61a-106**, (Renumbered from 26-60b-108, as enacted by Statewide Initiative --
- 48 Proposition 2, Nov. 6, 2018)
- 49 **26-61a-201**, (Renumbered from 26-60b-103, as enacted by Statewide Initiative --
- 50 Proposition 2, Nov. 6, 2018)
- 51 **26-61a-202**, (Renumbered from 26-60b-105, as enacted by Statewide Initiative --
- 52 Proposition 2, Nov. 6, 2018)
- 53 **26-61a-203**, (Renumbered from 26-60b-106, as enacted by Statewide Initiative --
- 54 Proposition 2, Nov. 6, 2018)
- 55 **26-61a-204**, (Renumbered from 26-60b-107, as enacted by Statewide Initiative --
- 56 Proposition 2, Nov. 6, 2018)

57           **26-61a-301**, (Renumbered from 26-60b-201, as enacted by Statewide Initiative --  
58 Proposition 2, Nov. 6, 2018)

59           **26-61a-302**, (Renumbered from 26-60b-202, as enacted by Statewide Initiative --  
60 Proposition 2, Nov. 6, 2018)

61           **26-61a-303**, (Renumbered from 26-60b-203, as enacted by Statewide Initiative --  
62 Proposition 2, Nov. 6, 2018)

63           **26-61a-304**, (Renumbered from 26-60b-204, as enacted by Statewide Initiative --  
64 Proposition 2, Nov. 6, 2018)

65 REPEALS:

66           **4-41b-101**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

67           **4-41b-102**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

68           **4-41b-103**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

69           **4-41b-104**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

70           **4-41b-201**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

71           **4-41b-202**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

72           **4-41b-203**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

73           **4-41b-204**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

74           **4-41b-301**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

75           **4-41b-302**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

76           **4-41b-303**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

77           **4-41b-401**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

78           **4-41b-402**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

79           **4-41b-403**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

80           **4-41b-404**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

81           **4-41b-405**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

82           **4-41b-501**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

83           **4-41b-502**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

84           **4-41b-601**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

85           **4-41b-602**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

86           **4-41b-603**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

87           **4-41b-701**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

- 88            [4-41b-702](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 89            [4-41b-801](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 90            [4-41b-802](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 91            [26-60b-301](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 92            [26-60b-302](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 93            [26-60b-303](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 94            [26-60b-304](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 95            [26-60b-401](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 96            [26-60b-402](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 97            [26-60b-403](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 98            [26-60b-501](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 99            [26-60b-502](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 100           [26-60b-503](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 101           [26-60b-504](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 102           [26-60b-505](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 103           [26-60b-506](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 104           [26-60b-601](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 105           [26-60b-602](#), as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 106           [26-61-101](#), as enacted by Laws of Utah 2017, Chapter 398
- 107           [26-61-102](#), as enacted by Laws of Utah 2017, Chapter 398
- 108           [26-61-103](#), as enacted by Laws of Utah 2017, Chapter 398
- 109           [26-61-201](#), as last amended by Laws of Utah 2018, Chapter 110
- 110           [26-61-202](#), as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018 and last
- 111 amended by Laws of Utah 2018, Chapter 110
- 112           [59-12-104.7 \(Repealed 01/01/19\)](#), as repealed by Laws of Utah 2018, Second Special
- 113 Session, Chapter 6



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

116            Section 1. Section **10-9a-104** is amended to read:

117            **10-9a-104. Stricter requirements.**

118            (1) Except as provided in Subsection (2), a municipality may enact an ordinance

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

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

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

123 [~~(b)~~] (a) Section 10-9a-305; and

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

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

126 Section 2. Section 17-27a-104 is amended to read:

127 **17-27a-104. Stricter requirements.**

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

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

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

133 [~~(b)~~] (a) Section 17-27a-305; and

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

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

136 Section 3. Section 26-61a-101, which is renumbered from Section 26-60b-101 is  
137 renumbered and amended to read:

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

139 **Part 1. General Provisions**

140 [~~26-60b-101~~]. **26-61a-101. Title.**

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

142 Section 4. Section 26-61a-102, which is renumbered from Section 26-60b-102 is  
143 renumbered and amended to read:

144 [~~26-60b-102~~]. **26-61a-102. Definitions.**

145 As used in this chapter:

146 (1) "Cannabis" means the same as that term is defined in Section 58-37-3.9.

147 [~~(2) "Cannabis cultivation facility" means the same as that term is defined in Section~~  
148 ~~4-41b-102;~~]

149 [~~(3) "Cannabis dispensary" means a person that;~~]

- 150 ~~[(a) acquires or intends to acquire cannabis or a cannabis product from a cannabis~~  
151 ~~production establishment and acquires or intends to acquire a medical cannabis device;]~~
- 152 ~~[(b) possesses cannabis, a cannabis product, or a medical cannabis device; and]~~
- 153 ~~[(c) sells or intends to sell cannabis, a cannabis product, or a medical cannabis device.]~~
- 154 ~~[(4) "Cannabis dispensary agent" means an owner, officer, director, board member,~~  
155 ~~employee, or volunteer of a cannabis dispensary.]~~
- 156 ~~[(5) "Cannabis dispensary agent registration card" means a registration card issued by~~  
157 ~~the department that authorizes an individual to act as a cannabis dispensary agent.]~~
- 158 ~~[(6) "Cannabis processing facility" means the same as that term is defined in Section~~  
159 ~~4-41b-102.]~~
- 160 ~~[(7)] (2) "Cannabis product" means the same as that term is defined in Section~~  
161 ~~58-37-3.9.~~
- 162 ~~[(8) "Cannabis production establishment agent" means the same as that term is defined~~  
163 ~~in Section 4-41b-102.]~~
- 164 ~~[(9) "Cannabis production establishment agent registration card" means the same as~~  
165 ~~that term is defined in Section 4-41b-102.]~~
- 166 ~~[(10) "Community location" means a public or private school, a church, a public~~  
167 ~~library, a public playground, or a public park.]~~
- 168 ~~[(11)] (3) "Designated caregiver" means an individual:~~
- 169 (a) whom a patient with a medical cannabis card designates as the patient's caregiver;
- 170 and
- 171 (b) registers with the department under Section ~~[26-60b-202]~~ 26-61a-302.
- 172 ~~[(12) "Independent cannabis testing laboratory" means the same as that term is defined~~  
173 ~~in Section 4-41b-102.]~~
- 174 ~~[(13) "Inventory control system" means the system described in Section 4-41b-103.]~~
- 175 ~~[(14)] (4) "Medical cannabis card" means an official card issued by the department to~~  
176 ~~an individual with a qualifying illness, or the individual's designated caregiver under this~~  
177 ~~chapter, that is connected to the electronic verification system.~~
- 178 ~~[(15)] (5) "Medical cannabis device" means the same as that term is defined in Section~~  
179 ~~58-37-3.9.~~
- 180 ~~[(16)] (6) "Medical Cannabis Restricted Account" means the account created in~~

181 Section ~~[26-60b-109]~~ 26-61a-104.

182 ~~[(17)]~~ (7) "Physician" means an individual who is qualified to recommend cannabis  
183 under Section ~~[26-60b-107]~~ 26-61a-204.

184 ~~[(18)]~~ (8) "Qualifying illness" means a condition described in Section ~~[26-60b-105]~~  
185 26-61a-202.

186 ~~[(19)]~~ (9) "State electronic verification system" means the system described in Section  
187 ~~[26-60b-103]~~ 26-61a-201.

188 Section 5. Section **26-61a-103**, which is renumbered from Section 26-60b-104 is  
189 renumbered and amended to read:

190 ~~[26-60b-104]~~. **26-61a-103. Preemption.**

191 This chapter preempts any ordinance or rule enacted by a political subdivision of the  
192 state regarding ~~[a cannabis dispensary or]~~ a medical cannabis card.

193 Section 6. Section **26-61a-104**, which is renumbered from Section 26-60b-109 is  
194 renumbered and amended to read:

195 ~~[26-60b-109]~~. **26-61a-104. Medical Cannabis Restricted Account --**  
196 **Creation.**

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

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

200 ~~[(a) money deposited into the account by the Department of Agriculture and Food~~  
201 ~~under Title 4, Chapter 41b, Cannabis Production Establishments;]~~

202 ~~[(b)]~~ (a) money deposited into the account by the department under this chapter;

203 ~~[(c)]~~ (b) appropriations made to the account by the Legislature; and

204 ~~[(d)]~~ (c) the interest described in Subsection (3).

205 (3) Interest earned on the account is deposited in the account.

206 (4) Money in the account may only be used to fund the state medical cannabis program,  
207 including Title 26, Chapter ~~[60b]~~ 61a, Medical Cannabis Act ~~[and Title 4, Chapter 41b,~~  
208 ~~Cannabis Production Establishments]~~.

209 Section 7. Section **26-61a-105**, which is renumbered from Section 26-60b-110 is  
210 renumbered and amended to read:

211 ~~[26-60b-110]~~. **26-61a-105. Nondiscrimination for use of cannabis, a**

212 **cannabis product, or a medical cannabis device.**

213 (1) For purposes of medical care, including organ and tissue transplants, the use of  
214 cannabis by a patient who holds a medical cannabis card in accordance with this chapter is  
215 considered the equivalent of the authorized use of any other medication used at the discretion  
216 of a physician and does not constitute the use of an illicit substance or otherwise disqualify an  
217 individual from needed medical care.

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

221 Section 8. Section **26-61a-106**, which is renumbered from Section 26-60b-108 is  
222 renumbered and amended to read:

223 ~~[26-60b-108].~~ **26-61a-106. Standard of care -- Medical practitioners not**  
224 **liable -- No private right of action.**

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

229 Section 9. Section **26-61a-201**, which is renumbered from Section 26-60b-103 is  
230 renumbered and amended to read:

231 **Part 2. Cannabis Recommendations**

232 ~~[26-60b-103].~~ **26-61a-201. Electronic verification system.**

233 (1) The [~~Department of Agriculture and Food, the Department of Health~~] department,  
234 the Department of Public Safety, and the Department of Technology Services shall:

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

237 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah  
238 Procurement Code, to develop a request for proposals for a third-party provider to develop and  
239 maintain an electronic verification system in coordination with the Department of Technology  
240 Services; and

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

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



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

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

247 ~~[(c) connect with an inventory control system used by a cannabis dispensary to track, in~~  
 248 ~~real time, and to archive for no more than 60 days, purchase history of cannabis or a cannabis~~  
 249 ~~product by a medical cannabis card holder, including the time and date of the purchase, the~~  
 250 ~~quantity and type of cannabis or cannabis product purchased, and any cannabis production~~  
 251 ~~establishment and cannabis dispensary associated with the cannabis or cannabis product;]~~

252 ~~[(d)]~~ (c) provide access to the ~~[Department of Health and the Department of~~  
 253 ~~Agriculture and Food]~~ department to the extent necessary to carry out the ~~[Department of~~  
 254 ~~Health's and the Department of Agriculture and Food's]~~ department's functions and  
 255 responsibilities under this chapter ~~[and under Title 4, Chapter 41b, Cannabis Production~~  
 256 ~~Establishment];~~

257 ~~[(e)]~~ (d) provide access to state or local law enforcement, during a traffic stop or after  
 258 obtaining a warrant, for the purpose of determining if the individual subject to the traffic stop is  
 259 complying with state medical cannabis law ~~[, or after obtaining a warrant];~~

260 ~~[(f)]~~ (e) create a record each time a person accesses the database that identifies the  
 261 person who accessed the database and the individual whose records are accessed; and

262 ~~[(g) (9)]~~ (f) be operational no later than March 1, 2020.

263 (3) The ~~[Department of Health]~~ department may release de-identified data collected by  
 264 the system for the purpose of conducting medical research ~~[and for providing the report~~  
 265 ~~required by Section 26-60b-602].~~

266 Section 10. Section **26-61a-202**, which is renumbered from Section 26-60b-105 is  
 267 renumbered and amended to read:

268 ~~[26-60b-105].~~ **26-61a-202. Qualifying illness.**

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

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

272 (b) Alzheimer's disease;

273 (c) amyotrophic lateral sclerosis;

274 (d) cancer, cachexia, or a condition manifest by physical wasting, nausea, or  
 275 malnutrition associated with chronic disease;  
 276 (e) Crohn's disease, ulcerative colitis, or a similar gastrointestinal disorder;  
 277 (f) epilepsy or a similar condition that causes debilitating seizures;  
 278 (g) multiple sclerosis or a similar condition that causes persistent and debilitating  
 279 muscle spasms;

280 (h) post-traumatic stress disorder;

281 (i) autism;

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

284 (k) chronic or debilitating pain [in an individual, if:].

285 [~~(i) a physician determines that the individual is at risk of becoming chemically  
 286 dependent on, or overdosing on, opiate-based pain medication; or]~~

287 [~~(ii) a physician determines that the individual is allergic to opiates or is otherwise  
 288 medically unable to use opiates.]~~

289 (2) In addition to the conditions described in Subsection (1), a condition approved  
 290 under Section [~~26-60b-106~~] 26-61a-203, in an individual, on a case-by-case basis, is considered  
 291 a qualifying illness for the purposes of this chapter.

292 Section 11. Section **26-61a-203**, which is renumbered from Section 26-60b-106 is  
 293 renumbered and amended to read:

294 [~~26-60b-106~~]. **26-61a-203. Compassionate Use Board.**

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

296 (a) five physicians who are knowledgeable about the medicinal use of cannabis and  
 297 certified by the appropriate board in one of the following specialties: neurology, pain medicine  
 298 and pain management, medical oncology, psychiatry, infectious disease, internal medicine,  
 299 pediatrics, and gastroenterology; and

300 (b) the director of the [~~Department of Health~~] department or the director's designee as a  
 301 non-voting member.

302 [~~(2)(a) Two of the members of the board first appointed shall serve for a term of three  
 303 years and two of the members of the board first appointed shall serve for a term of four years.]~~

304 [~~(b) After the first members' terms expire, members]~~

305           (2) (a) Members of the board shall serve for a term of four years and shall be eligible  
306 for reappointment.

307           ~~[(c) Any member of the board may serve until a successor is appointed.]~~

308           ~~[(d)]~~ (b) The director of the ~~[Department of Health]~~ department or the director's  
309 designee shall serve as the chair of the board.

310           ~~[(3) A quorum of the Compassionate Use Board shall consist of three members.]~~

311           ~~[(4)]~~ (3) A member of the board may not receive compensation or benefits for the  
312 member's service, but may receive per diem and travel expenses in accordance with Section  
313 63A-3-106, Section 63A-3-107, and rules made by the Division of Finance pursuant to  
314 Sections 63A-3-106 and 63A-3-107.

315           ~~[(5)]~~ (4) The Compassionate Use Board shall:

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

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

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

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

327           (c) complete a review of each petition and recommend approval or denial of the  
328 applicant for qualification for a medical cannabis card within 90 days of receipt~~[, and]~~.

329           ~~[(d) report, before November 1 of each year, to the Health and Human Services Interim  
330 Committee, the number of compassionate use approvals the board issued during the past year  
331 and the types of conditions for which the board approved compassionate use.]~~

332           ~~[(6) The department shall review any compassionate use approved by the board under  
333 this section to determine if the board properly exercised the board's discretion under this  
334 section.]~~

335           ~~[(7)]~~ (5) If the ~~[department determines]~~ the board ~~[properly approved]~~ approves an

336 individual for compassionate use under this section, the department shall issue a medical  
337 cannabis card.

338       ~~[(8)]~~ (6) Any individually identifiable health information contained in a petition  
339 received under this section shall be a protected record in accordance with Title 63G, Chapter 2,  
340 Government Records Access and Management Act.

341       ~~[(9) The Compassionate Use Board may recommend to the Health and Human Services  
342 Interim Committee:]~~

343       ~~[(a) a condition to designate as a qualifying illness under Section 26-60b-105; or]~~

344       ~~[(b) a condition to remove as a qualifying illness under Section 26-60b-105:]~~

345       Section 12. Section **26-61a-204**, which is renumbered from Section 26-60b-107 is  
346 renumbered and amended to read:

347       ~~[26-60b-107].~~       **26-61a-204. Physician qualification.**

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

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

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

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

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

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

365       (i) a green cross;

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

- 367 (iii) a qualifying illness that the physician treats; and  
368 (iv) a scientific study regarding cannabis use.

369 Section 13. Section **26-61a-301**, which is renumbered from Section 26-60b-201 is  
370 renumbered and amended to read:

371 **Part 3. Medical Cannabis Cards**

372 ~~[26-60b-201]~~. **26-61a-301. Medical cannabis card -- Application -- Fees --**  
373 **Database.**

374 (1) The ~~[Department of Health]~~ department shall, no later than March 1, 2020, and  
375 within 15 days after an individual submits an application in compliance with this section, issue  
376 a medical cannabis card to an individual who complies with this section.

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

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

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

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

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

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

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

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

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

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

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

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

405 (d) after January 1, 2021, if a licensed cannabis dispensary is not operating within 100  
406 miles of the medical cannabis card holder's primary residence, grow up to six cannabis plants  
407 for personal medical use within an enclosed and locked space and not within view from a  
408 public place and that is not within 600 feet of a community location or within 300 feet of an  
409 area zoned exclusively for residential use, as measured from the nearest entrance to the space  
410 and following the shortest route or ordinary pedestrian travel to the property boundary of the  
411 community location or residential area.

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

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

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

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

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

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

426 Section 14. Section **26-61a-302**, which is renumbered from Section 26-60b-202 is  
427 renumbered and amended to read:

428 ~~[26-60b-202]~~. **26-61a-302. Medical cannabis card --- Designated caregiver**

429 -- **Registration -- Renewal -- Revocation.**

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

432 (a) the individual has a valid medical cannabis card under Section [~~26-60b-201~~]

433 [26-61a-301](#); and

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

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

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

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

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

444 (d) after January 1, 2021, if a licensed cannabis dispensary is not operating within 100  
445 miles of the designating patient's primary residence, assist the designating patient with growing  
446 up to six cannabis plants for personal medicinal use within an enclosed and locked space and  
447 not within view from a public place and that is not within 600 feet of a community location or  
448 within 300 feet of an area zoned exclusively for residential use, as measured from the nearest  
449 entrance to the space and following the shortest route or ordinary pedestrian travel to the  
450 property boundary of the community location or residential area.

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

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

456 (a) is at least 18 years old;

457 (b) is a Utah resident;

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

460 [~~26-60b-203~~] 26-61a-303; and

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

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

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

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

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

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

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

477 (9) The [~~Department of Health~~] department may revoke a designated caregiver's  
478 medical cannabis card if the individual:

479 (a) violates this chapter; or

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

481 Section 15. Section **26-61a-303**, which is renumbered from Section 26-60b-203 is  
482 renumbered and amended to read:

483 [~~26-60b-203~~]. **26-61a-303. Designated caregiver -- Criminal background**  
484 **check.**

485 (1) An individual registered as a designated caregiver under Section [~~26-60b-202~~]  
486 26-61a-302 shall submit to a criminal background check in accordance with Subsection (2).

487 (2) Each designated caregiver shall:

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

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



- 491 (i) the Utah Bureau of Criminal Identification; and
- 492 (ii) the Federal Bureau of Investigation.

493 (3) The Department of Public Safety shall complete a Federal Bureau of Investigation  
494 Criminal Background Check for each designated caregiver under Subsection (2) and report the  
495 results of the background check to the department.

496 Section 16. Section **26-61a-304**, which is renumbered from Section 26-60b-204 is  
497 renumbered and amended to read:

498 ~~[26-60b-204]~~. **26-61a-304. Medical cannabis card -- Patient and designated**  
499 **caregiver requirements -- Rebuttable presumption.**

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

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

503 (b) carry, with the cannabis or cannabis product, a label that identifies that the cannabis  
504 or cannabis product was originally sold from a licensed cannabis dispensary and includes an  
505 identification number that links the cannabis or cannabis product to the inventory control  
506 system; and

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

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

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

513 (3) If an individual possesses cannabis or a cannabis product in compliance with  
514 Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis  
515 product:

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

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

521 (4) (a) If a law enforcement officer stops an individual who possesses cannabis, a

522 cannabis product, or a medical cannabis device, and the individual represents to the law  
523 enforcement officer that the individual holds a valid medical cannabis card, but the individual  
524 does not have the medical cannabis card in the individual's possession at the time of the stop by  
525 the law enforcement officer, the law enforcement officer shall attempt to access the electronic  
526 verification system to determine whether the individual holds a valid medical cannabis card.

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

- 529 (i) may not arrest or take the individual into custody for the sole reason that the  
530 individual is in possession of cannabis, a cannabis product, or a medical cannabis device; and
- 531 (ii) may not seize the cannabis, cannabis product, or medical cannabis device.

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

535 Section 17. Section **30-3-10** is amended to read:

536 **30-3-10. Custody of children in case of separation or divorce -- Custody**  
537 **consideration.**

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

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

- 545 (i) the past conduct and demonstrated moral standards of each of the parties;
- 546 (ii) which parent is most likely to act in the best interest of the child, including  
547 allowing the child frequent and continuing contact with the noncustodial parent;
- 548 (iii) the extent of bonding between the parent and child, meaning the depth, quality,  
549 and nature of the relationship between a parent and child;
- 550 (iv) whether the parent has intentionally exposed the child to pornography or material  
551 harmful to a minor, as defined in Section 76-10-1201; and
- 552 (v) those factors outlined in Section 30-3-10.2.

553 (b) There shall be a rebuttable presumption that joint legal custody, as defined in  
554 Section 30-3-10.1, is in the best interest of the child, except in cases where there is:

555 (i) domestic violence in the home or in the presence of the child;

556 (ii) special physical or mental needs of a parent or child, making joint legal custody  
557 unreasonable;

558 (iii) physical distance between the residences of the parents, making joint decision  
559 making impractical in certain circumstances; or

560 (iv) any other factor the court considers relevant including those listed in this section  
561 and Section 30-3-10.2.

562 (c) The person who desires joint legal custody shall file a proposed parenting plan in  
563 accordance with Sections 30-3-10.8 and 30-3-10.9. A presumption for joint legal custody may  
564 be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of  
565 the child.

566 (d) The children may not be required by either party to testify unless the trier of fact  
567 determines that extenuating circumstances exist that would necessitate the testimony of the  
568 children be heard and there is no other reasonable method to present their testimony.

569 (e) The court may inquire of the children and take into consideration the children's  
570 desires regarding future custody or parent-time schedules, but the expressed desires are not  
571 controlling and the court may determine the children's custody or parent-time otherwise. The  
572 desires of a child 14 years of age or older shall be given added weight, but is not the single  
573 controlling factor.

574 (f) If interviews with the children are conducted by the court pursuant to Subsection  
575 (1)(e), they shall be conducted by the judge in camera. The prior consent of the parties may be  
576 obtained but is not necessary if the court finds that an interview with the children is the only  
577 method to ascertain the child's desires regarding custody.

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

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

584 parent.

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

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

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

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

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

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

602 (6) In considering the past conduct and demonstrated moral standards of each of the  
603 parties as described under Subsection (1)(a)(i), a court may not discriminate against a parent  
604 because of the parent's possession or consumption of cannabis, a cannabis product, or a  
605 medical cannabis device, in accordance with Title 26, Chapter ~~60b, Medical Cannabis Act, or~~  
606 ~~because of the parent's status as a cannabis production establishment agent in accordance with~~  
607 ~~Title 4, Chapter 41b, a cannabis dispensary agent in accordance with Title 26, Chapter 60b, or a~~  
608 ~~medical cannabis card holder in accordance with Title 26, Chapter 60b]~~ 61a, Medical Cannabis  
609 Act.

610 Section 18. Section 53-1-106.5 is amended to read:

611 **53-1-106.5. Medical Cannabis Act -- Department duties.**

612 In addition to the duties described in Section 53-1-106, the department shall provide  
613 standards for training peace officers and law enforcement agencies in the use of the electronic  
614 verification system and collaborate with the Department of Health ~~[and the Department of~~

615 ~~Agriculture and Food~~] to provide standards for training peace officers and law enforcement  
616 agencies in medical cannabis law.

617 Section 19. Section **58-37-3.7** is amended to read:

618 **58-37-3.7. Affirmative defense.**

619 (1) Before July 1, 2020, it is an affirmative defense to criminal charges against an  
620 individual for the use[;] or possession[~~;~~ ~~or manufacture~~] of marijuana, tetrahydrocannabinol, or  
621 marijuana drug paraphernalia under this chapter that the individual would be eligible for a  
622 medical cannabis card, and that the individuals conduct would have been lawful, after July 1,  
623 2020.

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

627 (a) the individual is a not a resident of Utah or has been a resident of Utah for less than  
628 45 days and was issued a currently valid medical cannabis identification card or its equivalent  
629 under the laws of another state, district, territory, commonwealth, or insular possession of the  
630 United States; and

631 (b) the individual has been diagnosed with a qualifying illness as described in Section  
632 [~~26-60b-105~~] [26-61a-202](#).

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

635 Section 20. Section **58-37-3.8** is amended to read:

636 **58-37-3.8. Enforcement.**

637 [(H)] No law enforcement officer employed by an agency that receives state or local  
638 government funds shall expend any state or local resources, including the officer's time, to  
639 effect any arrest or seizure of cannabis, or conduct any investigation, on the sole basis of  
640 activity the officer believes to constitute a violation of federal law if the officer has reason to  
641 believe that such activity is in compliance with the state medical cannabis laws, nor shall any  
642 such officer expend any state or local resources, including the officer's time, to provide any  
643 information or logistical support related to such activity to any federal law enforcement  
644 authority or prosecuting entity.

645 [(2) No agency or political subdivision of Utah may rely on a violation of federal law

646 as the sole basis for taking an adverse action against a person providing professional services to  
647 a cannabis dispensary or a cannabis production establishment if the person has not violated the  
648 state medical cannabis laws.]

649 Section 21. Section ~~58-37-3.9~~ is amended to read:

650 **58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying**  
651 **illness.**

652 (1) As used in this section:

653 (a) "Cannabis" means marijuana.

654 ~~[(b) "Cannabis dispensary" means the same as that term is defined in Section~~  
655 ~~26-60b-102.]~~

656 ~~[(c)]~~ (b) "Cannabis product" means a product that:

657 (i) is intended for human ingestion; and

658 (ii) contains cannabis or tetrahydrocannabinol.

659 ~~[(d)]~~ (c) "Designated caregiver" means the same as that term is defined in Section  
660 ~~[26-60b-102]~~ [26-61a-102](#).

661 ~~[(e)]~~ (d) "Drug paraphernalia" means the same as that term is defined in Section  
662 ~~58-37a-3~~.

663 ~~[(f)]~~ (e) "Marijuana" means the same as that term is defined in Section ~~58-37-2~~.

664 ~~[(g)]~~ (f) "Medical cannabis card" means the same as that term is defined in Section  
665 ~~[26-60b-102]~~ [26-61a-102](#).

666 ~~[(h)]~~ (g) (i) "Medical cannabis device" means a device that an individual uses to ingest  
667 cannabis or a cannabis product.

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

670 ~~[(i)]~~ (h) "Qualifying illness" means the same as that term is defined in Section  
671 ~~[26-60b-102]~~ [26-61a-102](#).

672 ~~[(j)]~~ (i) "Tetrahydrocannabinol" means a substance derived from cannabis that meets  
673 the description in Subsection ~~58-37-4(2)(a)(iii)(AA)~~.

674 (2) Notwithstanding any other provision of law, except as otherwise provided in this  
675 section~~[(a)]~~, an individual who possesses, produces, manufactures, dispenses, distributes, sells,  
676 or offers to sell cannabis or a cannabis product or who possesses with intent to produce,

677 manufacture, dispense, distribute, sell, or offer to sell cannabis or a cannabis product is not  
678 subject to the penalties described in this title for the conduct to the extent that the individual's  
679 conduct complies with[: (i) Title 4, Chapter 41b, Cannabis Production Establishment; and (ii)]  
680 Title 26, Chapter [60b] 61a, Medical Cannabis Act[;].

681 [~~(b) an individual who possesses, manufactures, distributes, sells, or offers to sell a~~  
682 ~~medical cannabis device or who possesses with intent to manufacture, distribute, sell, or offer~~  
683 ~~to sell a medical cannabis device is authorized and is not subject to the penalties described in~~  
684 ~~this title for the possession, manufacture, distribution, sale, or offer for sale of drug~~  
685 ~~paraphernalia to the extent that the individual's conduct complies with:]~~

686 [(i) Title 4, Chapter 41b, Cannabis Production Establishment; and]

687 [(ii) Title 26, Chapter 60b, Medical Cannabis Act.]

688 (3) For purposes of state law, except as otherwise provided in this section, activities  
689 related to cannabis shall be considered lawful and any cannabis consumed shall be considered  
690 legally ingested, as long as the conduct is in accordance with[: (a) Title 4, Chapter 41b,  
691 ~~Cannabis Production Establishment; and (b)] Title 26, Chapter [60b] 61a, Medical Cannabis  
692 Act.~~

693 (4) (a) It is not lawful for a medical cannabis card holder to smoke cannabis or to use a  
694 device to facilitate the smoking of cannabis.

695 (b) An individual convicted of violating this section is guilty of an infraction.

696 (c) For purposes of this section, smoking does not include a means of administration  
697 that involves cannabis combustion at a temperature that is not greater than 750 degrees  
698 Fahrenheit and that does not involve using a flame.

699 (5) An individual is not exempt from the penalties described in this title for ingesting  
700 cannabis or a cannabis product while operating a motor vehicle.

701 (6) An individual who is assessed a penalty or convicted of an infraction under [Title 4,  
702 ~~Chapter 41b, Cannabis Production Establishment; or] Title 26, Chapter [60b] 61a, Medical  
703 Cannabis Act, is not subject to the penalties described in this chapter for:~~

704 (a) the possession[~~;~~ ~~manufacture, sale, or offer for sale] of cannabis or a cannabis  
705 product; or~~

706 (b) the possession[~~;~~ ~~manufacture, sale, or offer for sale] of drug paraphernalia.~~

707 Section 22. Section ~~62A-4a-202.1~~ is amended to read:

708           **62A-4a-202.1. Entering home of a child -- Taking a child into protective custody**  
709 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or**  
710 **emergency placement.**

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

712           (a) enter the home of a child who is not under the jurisdiction of the court, remove a  
713 child from the child's home or school, or take a child into protective custody unless authorized  
714 under Subsection [78A-6-106\(2\)](#); or

715           (b) remove a child from the child's home or take a child into custody under this section  
716 solely on the basis of:

717           (i) educational neglect, truancy, or failure to comply with a court order to attend  
718 school; or

719           (ii) the possession or use of cannabis, a cannabis product, or a medical cannabis device  
720 in the home, if the use and possession of the cannabis, cannabis product, or medical cannabis  
721 device is in compliance with Title 26, Chapter ~~[60b]~~ [61a](#), Medical Cannabis Act.

722           (2) A child welfare worker within the division may take action under Subsection ~~[10]~~  
723 [\(1\)](#) accompanied by a peace officer, or without a peace officer when a peace officer is not  
724 reasonably available.

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

729           (b) If the services described in Subsection (3)(a) are reasonably available, they shall be  
730 utilized.

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

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

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



- 739 (i) a shelter facility; or  
740 (ii) an emergency placement in accordance with Section 62A-4a-209.  
741 (c) When making a placement under Subsection (4)(b), the Division of Child and  
742 Family Services shall give priority to a placement with a noncustodial parent, relative, or  
743 friend, in accordance with Section 62A-4a-209.  
744 ~~[(a)]~~ (d) If the child is not placed with a noncustodial parent, a relative, or a designated  
745 friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor  
746 explaining why a different placement was in the child's best interest.  
747 (5) When a child is removed from the child's home or school or taken into protective  
748 custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:  
749 (a) the parent's rights under this part, including the right to be present and participate in  
750 any court proceeding relating to the child's case;  
751 (b) that it may be in the parent's best interest to contact an attorney and that, if the  
752 parent cannot afford an attorney, the court will appoint one;  
753 (c) the name and contact information of a division employee the parent may contact  
754 with questions;  
755 (d) resources that are available to the parent, including:  
756 (i) mental health resources;  
757 (ii) substance abuse resources; and  
758 (iii) parenting classes; and  
759 (e) any other information considered relevant by the division.  
760 (6) The pamphlet or flier described in Subsection (5) shall be:  
761 (a) evaluated periodically for its effectiveness at conveying necessary information and  
762 revised accordingly;  
763 (b) written in simple, easy-to-understand language; and  
764 (c) available in English and other languages as the division determines to be  
765 appropriate and necessary.

766 Section 23. Section 63I-2-226 is amended to read:

767 **63I-2-226. Repeal dates -- Title 26.**

768 (1) Subsection 26-7-8(3) is repealed January 1, 2027.

769 (2) Subsection 26-7-9(5) is repealed January 1, 2019.

- 770 (3) Section 26-8a-107 is repealed July 1, 2019.
- 771 (4) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.
- 772 (5) Subsection 26-18-2.3(5) is repealed January 1, 2020.
- 773 (6) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.
- 774 (7) Subsection 26-18-408(6) is repealed January 2, 2019.
- 775 (8) Subsection 26-18-410(5) is repealed January 1, 2026.
- 776 (9) Subsection 26-18-411(5) is repealed January 1, 2023.
- 777 (10) Subsection 26-18-604(2) is repealed January 1, 2020.
- 778 (11) Subsection 26-21-28(2)(b) is repealed January 1, 2021.
- 779 (12) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.
- 780 (13) Subsection 26-33a-106.5(6)(c)(iii) is repealed January 1, 2020.
- 781 (14) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program,
- 782 is repealed July 1, 2027.
- 783 (15) Subsection 26-50-202(7)(b) is repealed January 1, 2020.
- 784 (16) Subsections 26-54-103(6)(d)(ii) and (iii) are repealed January 1, 2020.
- 785 (17) Subsection 26-55-107(8) is repealed January 1, 2021.
- 786 (18) Subsection 26-56-103(9)(d) is repealed January 1, 2020.
- 787 (19) Title 26, Chapter 59, Telehealth Pilot Program, is repealed January 1, 2020.
- 788 [~~(20) Subsection 26-61-202(4)(b) is repealed January 1, 2022.~~]
- 789 [~~(21) Subsection 26-61-202(5) is repealed January 1, 2022.~~]
- 790 Section 24. Section **78A-6-508 (Superseded 07/01/19)** is amended to read:
- 791 **78A-6-508 (Superseded 07/01/19). Evidence of grounds for termination.**
- 792 (1) In determining whether a parent or parents have abandoned a child, it is prima facie
- 793 evidence of abandonment that the parent or parents:
- 794 (a) although having legal custody of the child, have surrendered physical custody of the
- 795 child, and for a period of six months following the surrender have not manifested to the child
- 796 or to the person having the physical custody of the child a firm intention to resume physical
- 797 custody or to make arrangements for the care of the child;
- 798 (b) have failed to communicate with the child by mail, telephone, or otherwise for six
- 799 months;
- 800 (c) failed to have shown the normal interest of a natural parent, without just cause; or

801 (d) have abandoned an infant, as described in Subsection 78A-6-316(1).

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

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

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

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

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

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

817 (f) a history of violent behavior; or

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

820 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent  
821 because of the parent's possession or consumption of cannabis, a cannabis product, or a  
822 medical cannabis device, in accordance with Title 26, Chapter ~~60b~~ 61a, Medical Cannabis  
823 Act.

824 (4) A parent who, legitimately practicing the parent's religious beliefs, does not provide  
825 specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

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

830 (b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to  
831 obtain a second health care opinion.

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

836 (7) The following circumstances constitute prima facie evidence of unfitness:

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

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

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

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

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

848 Section 25. Section **78A-6-508 (Effective 07/01/19)** is amended to read:

849 **78A-6-508 (Effective 07/01/19). Evidence of grounds for termination.**

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

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

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

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

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

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

862 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the

863 parent unable to care for the immediate and continuing physical or emotional needs of the child  
864 for extended periods of time;

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

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

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

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

875 (f) a history of violent behavior; or

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

878 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent  
879 because of the parent's possession or consumption of cannabis, a cannabis product, or a  
880 medical cannabis device, in accordance with Title 26, Chapter ~~60b~~ 61a, Medical Cannabis  
881 Act.

882 (4) A parent who, legitimately practicing the parent's religious beliefs, does not provide  
883 specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

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

888 (b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to  
889 obtain a second health care opinion.

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

- 894 (7) The following circumstances constitute prima facie evidence of unfitness:  
895 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any  
896 child, due to known or substantiated abuse or neglect by the parent or parents;  
897 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to  
898 indicate the unfitness of the parent to provide adequate care to the extent necessary for the  
899 child's physical, mental, or emotional health and development;  
900 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement  
901 of the child;  
902 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to  
903 commit murder or manslaughter of a child or child abuse homicide; or  
904 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent  
905 of the child, without legal justification.

906 Section 26. **Repealer.**

907 This bill repeals:

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

909 Section **4-41b-102, Definitions.**

910 Section **4-41b-103, Inventory Control System.**

911 Section **4-41b-104, Preemption.**

912 Section **4-41b-201, Cannabis production establishment -- License.**

913 Section **4-41b-202, Renewal.**

914 Section **4-41b-203, Operating plan.**

915 Section **4-41b-204, Number of licenses -- Cannabis cultivation facilities.**

916 Section **4-41b-301, Cannabis production establishment agent -- Registration.**

917 Section **4-41b-302, Cannabis production establishment -- Criminal background**  
918 **checks.**

919 Section **4-41b-303, Cannabis production establishment agent registration card --**  
920 **Rebuttable presumption.**

921 Section **4-41b-401, Cannabis production establishment -- General operating**  
922 **requirements.**

923 Section **4-41b-402, Inspections.**

924 Section **4-41b-403, Advertising.**

- 925 Section 4-41b-404, Cannabis, cannabis product, or medical cannabis device  
926 **transportation.**
- 927 Section 4-41b-405, Local control.
- 928 Section 4-41b-501, Cannabis cultivation facility -- Operating requirements.
- 929 Section 4-41b-502, Cannabis -- Labeling and packaging.
- 930 Section 4-41b-601, Cannabis processing facility -- Operating requirements --  
931 **General.**
- 932 Section 4-41b-602, Cannabis product -- Labeling and packaging.
- 933 Section 4-41b-603, Cannabis product -- Product quality.
- 934 Section 4-41b-701, Cannabis and cannabis product testing.
- 935 Section 4-41b-702, Reporting -- Inspections -- Seizure by the department.
- 936 Section 4-41b-801, Enforcement -- Fine -- Citation.
- 937 Section 4-41b-802, Report.
- 938 Section 26-60b-301, Cannabis dispensary -- License -- Eligibility.
- 939 Section 26-60b-302, Renewal.
- 940 Section 26-60b-303, Operating plan.
- 941 Section 26-60b-304, Maximum number of licenses.
- 942 Section 26-60b-401, Cannabis dispensary agent -- Registration.
- 943 Section 26-60b-402, Cannabis dispensary agents -- Criminal background checks.
- 944 Section 26-60b-403, Cannabis dispensary agent registration card -- Rebuttable  
945 **presumption.**
- 946 Section 26-60b-501, Operating requirements -- General.
- 947 Section 26-60b-502, Dispensing -- Amount a cannabis dispensary may dispense --  
948 **Reporting -- Form of cannabis or cannabis product.**
- 949 Section 26-60b-503, Inspections.
- 950 Section 26-60b-504, Advertising.
- 951 Section 26-60b-505, Cannabis, cannabis product, or medical cannabis device  
952 **transportation.**
- 953 Section 26-60b-506, Local control.
- 954 Section 26-60b-601, Enforcement -- Fine -- Citation.
- 955 Section 26-60b-602, Report.

956 Section [26-61-101](#), Title.

957 Section [26-61-102](#), Definitions.

958 Section [26-61-103](#), Institutional review board -- Approved study of cannabis, a  
959 **cannabinoid product, or an expanded cannabinoid product.**

960 Section [26-61-201](#), Cannabinoid Product Board.

961 Section [26-61-202](#), Cannabinoid Product Board -- Duties.

962 Section [59-12-104.7](#) (Repealed 01/01/19), Reporting by purchaser of certain sales  
963 **and use tax exempt purchases.**

964 Section 27. **Effective date.**

965 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members  
966 elected to each house, this bill takes effect upon approval by the governor, or the day following  
967 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's  
968 signature, or in the case of a veto, the date of veto override.

969 (2) The amendments to Section [78A-6-508](#) (Effective 07/01/19) in this bill take effect  
970 on July 1, 2019.