

PROPERTY AND FINANCIAL OFFENSE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill concerns penalties and evidence relating to property and financial offenses.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates penalties and a presumption of imprisonment for certain property, financial, and related offenses;
- ▶ increases the penalty for a violation of a written false statement on a financial declaration completed by a defendant;
- ▶ provides that a prosecuting attorney may subpoena certain information regarding property that may be necessary to satisfy a future restitution order, and that a court may consider this information when establishing a defendant's payment schedule on a criminal accounts receivable; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 28 **61-1-21**, as last amended by Laws of Utah 2016, Chapter 401
- 29 **63G-12-402**, as last amended by Laws of Utah 2021, Chapter 402
- 30 **76-6-102**, as last amended by Laws of Utah 2013, Chapter 272
- 31 **76-6-202**, as last amended by Laws of Utah 2012, Chapter 303
- 32 **76-6-412**, as last amended by Laws of Utah 2021, Chapter 57
- 33 **76-6-501**, as last amended by Laws of Utah 2016, Chapter 117
- 34 **76-6-513**, as last amended by Laws of Utah 2019, Chapter 211
- 35 **76-6-521**, as last amended by Laws of Utah 2019, Chapter 193
- 36 **76-6-703**, as last amended by Laws of Utah 2017, Chapters 462 and 467
- 37 **76-6-1204**, as last amended by Laws of Utah 2010, Chapter 193
- 38 **76-8-504**, as enacted by Laws of Utah 1973, Chapter 196
- 39 **76-10-1603.5**, as last amended by Laws of Utah 2013, Chapter 394
- 40 **76-10-1801**, as last amended by Laws of Utah 2010, Chapter 193
- 41 **76-10-1904**, as last amended by Laws of Utah 1996, Chapter 17
- 42 **77-32b-103**, as enacted by Laws of Utah 2021, Chapter 260
- 43 **77-38b-204**, as renumbered and amended by Laws of Utah 2021, Chapter 260
- 44 **77-38b-402**, as renumbered and amended by Laws of Utah 2021, Chapter 260

45 ENACTS:

46 **76-3-210**, Utah Code Annotated 1953



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

49 Section 1. Section **61-1-21** is amended to read:

50 **61-1-21. Penalties for violations.**

51 (1) A person is guilty of a third degree felony who willfully violates:

52 (a) a provision of this chapter except Sections **61-1-1** and **61-1-16**;

53 (b) an order issued under this chapter; or

54 (c) Section **61-1-16** knowing the statement made is false or misleading in a material
55 respect.

56 (2) Subject to the other provisions of this section, a person who willfully violates

57 Section **61-1-1**:

58 (a) is guilty of a third degree felony if, at the time the crime was committed, the

59 property, money, or thing unlawfully obtained or sought to be obtained was worth less than
60 \$10,000; or

61 (b) is guilty of a second degree felony if, at the time the crime was committed, the
62 property, money, or thing unlawfully obtained or sought to be obtained was worth \$10,000 or
63 more.

64 (3) A person who willfully violates Section 61-1-1 is guilty of a second degree felony
65 if:

66 (a) at the time the crime was committed, the property, money, or thing unlawfully
67 obtained or sought to be obtained was worth less than \$10,000; and

68 (b) in connection with that violation, the violator knowingly accepted any money
69 representing:

70 (i) equity in a person's primary residence;

71 (ii) a withdrawal from an individual retirement account;

72 (iii) a withdrawal from a qualified retirement plan as defined in the Internal Revenue
73 Code;

74 (iv) an investment by a person over whom the violator exercises undue influence; or

75 (v) an investment by a person that the violator knows is a vulnerable adult.

76 (4) A person who willfully violates Section 61-1-1 is guilty of a second degree felony
77 punishable by imprisonment for an indeterminate term of not less than three years or more than
78 15 years if:

79 (a) at the time the crime was committed, the property, money, or thing unlawfully
80 obtained or sought to be obtained was worth \$10,000 or more; and

81 (b) in connection with that violation, the violator knowingly accepted any money
82 representing:

83 (i) equity in a person's primary residence;

84 (ii) a withdrawal from an individual retirement account;

85 (iii) a withdrawal from a qualified retirement plan as defined in the Internal Revenue
86 Code;

87 (iv) an investment by a person over whom the violator exercises undue influence; or

88 (v) an investment by a person that the violator knows is a vulnerable adult.

89 (5) The penalties and presumptions for imprisonment for a high-value property or

90 financial offense described in Section 76-3-210 apply to a violation of Section 61-1-1, 61-1-3,
91 or 61-1-7.

92 [~~(5)~~] (6) When amounts of property, money, or other things are unlawfully obtained or
93 sought to be obtained under a series of acts or continuing course of business, whether from the
94 same or several sources, the amounts may be aggregated in determining the level of offense.

95 [~~(6)~~] (7) It is an affirmative defense under this section against a claim that the person
96 violated an order issued under this chapter for the person to prove that the person had no
97 knowledge of the order.

98 [~~(7)~~] (8) In addition to any other penalty for a criminal violation of this chapter, the
99 sentencing judge may impose a penalty or remedy provided for in Subsection 61-1-20(2)(b).

100 Section 2. Section 63G-12-402 is amended to read:

101 **63G-12-402. Receipt of state, local, or federal public benefits -- Verification --**
102 **Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.**

103 (1) (a) Except as provided in Subsection (3) or when exempted by federal law, an
104 agency or political subdivision of the state shall verify the lawful presence in the United States
105 of an individual at least 18 years [~~of age~~] old who applies for:

- 106 (i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or
- 107 (ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an
- 108 agency or political subdivision of this state.

109 (b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction
110 Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of
111 Commerce shall verify in accordance with this Subsection (1) the lawful presence in the United
112 States of each individual who:

- 113 (i) owns an interest in the contractor that is an unincorporated entity; and
- 114 (ii) engages, or will engage, in a construction trade in Utah as an owner of the
- 115 contractor described in Subsection (1)(b)(i).

116 (2) This section shall be enforced without regard to race, religion, gender, ethnicity, or
117 national origin.

118 (3) Verification of lawful presence under this section is not required for:

- 119 (a) any purpose for which lawful presence in the United States is not restricted by law,
- 120 ordinance, or regulation;

- 121 (b) assistance for health care items and services that:
- 122 (i) are necessary for the treatment of an emergency medical condition, as defined in 42
- 123 U.S.C. Sec. 1396b(v)(3), of the individual involved; and
- 124 (ii) are not related to an organ transplant procedure;
- 125 (c) short-term, noncash, in-kind emergency disaster relief;
- 126 (d) public health assistance for immunizations with respect to immunizable diseases
- 127 and for testing and treatment of symptoms of communicable diseases whether or not the
- 128 symptoms are caused by the communicable disease;
- 129 (e) programs, services, or assistance such as soup kitchens, crisis counseling and
- 130 intervention, and short-term shelter, specified by the United States Attorney General, in the
- 131 sole and unreviewable discretion of the United States Attorney General after consultation with
- 132 appropriate federal agencies and departments, that:
- 133 (i) deliver in-kind services at the community level, including through public or private
- 134 nonprofit agencies;
- 135 (ii) do not condition the provision of assistance, the amount of assistance provided, or
- 136 the cost of assistance provided on the income or resources of the individual recipient; and
- 137 (iii) are necessary for the protection of life or safety;
- 138 (f) the exemption for paying the nonresident portion of total tuition as set forth in
- 139 Section [53B-8-106](#);
- 140 (g) an applicant for a license under Section [61-1-4](#), if the applicant:
- 141 (i) is registered with the Financial Industry Regulatory Authority; and
- 142 (ii) files an application with the state Division of Securities through the Central
- 143 Registration Depository;
- 144 (h) a state public benefit to be given to an individual under Title 49, Utah State
- 145 Retirement and Insurance Benefit Act;
- 146 (i) a home loan that will be insured, guaranteed, or purchased by:
- 147 (i) the Federal Housing Administration, the Veterans Administration, or any other
- 148 federal agency; or
- 149 (ii) an enterprise as defined in 12 U.S.C. Sec. 4502;
- 150 (j) a subordinate loan or a grant that will be made to an applicant in connection with a
- 151 home loan that does not require verification under Subsection (3)(i);

152 (k) an applicant for a license issued by the Department of Commerce or individual
153 described in Subsection (1)(b), if the applicant or individual provides the Department of
154 Commerce:

155 (i) certification, under penalty of perjury, that the applicant or individual is:

156 (A) a United States citizen;

157 (B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or

158 (C) lawfully present in the United States; and

159 (ii) (A) the number assigned to a driver license or identification card issued under Title
160 53, Chapter 3, Uniform Driver License Act; or

161 (B) the number assigned to a driver license or identification card issued by a state other
162 than Utah if, as part of issuing the driver license or identification card, the state verifies an
163 individual's lawful presence in the United States; and

164 (l) an applicant for:

165 (i) an Opportunity scholarship described in Title 53B, Chapter 8, Part 2, Regents'
166 Scholarship Program;

167 (ii) a New Century scholarship described in Section [53B-8-105](#);

168 (iii) a promise scholarship described in Section [53B-8-303](#); or

169 (iv) a scholarship:

170 (A) for an individual who is a graduate of a high school located within Utah; and

171 (B) administered by an institution of higher education as defined in Section [53B-2-101](#).

172 (4) (a) An agency or political subdivision required to verify the lawful presence in the
173 United States of an applicant under this section shall require the applicant to certify under
174 penalty of perjury that:

175 (i) the applicant is a United States citizen; or

176 (ii) the applicant is:

177 (A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

178 (B) lawfully present in the United States.

179 (b) The certificate required under this Subsection (4) shall include a statement advising
180 the signer that providing false information subjects the signer to penalties for perjury.

181 (5) An agency or political subdivision shall verify a certification required under
182 Subsection (4)(a)(ii) through the federal SAVE program.

183 (6) (a) An individual who knowingly and willfully makes a false, fictitious, or
184 fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject
185 to the criminal penalties applicable in this state for:

186 (i) making a written false statement under [~~Subsection 76-8-504(2)~~] Section 76-8-504;

187 and

188 (ii) fraudulently obtaining:

189 (A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or

190 (B) unemployment compensation under Section 76-8-1301.

191 (b) If the certification constitutes a false claim of United States citizenship under 18
192 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United
193 States Attorney General for the applicable district based upon the venue in which the
194 application was made.

195 (c) If an agency or political subdivision receives verification that a person making an
196 application for a benefit, service, or license is not a qualified alien, the agency or political
197 subdivision shall provide the information to the Office of the Attorney General unless
198 prohibited by federal mandate.

199 (7) An agency or political subdivision may adopt variations to the requirements of this
200 section that:

201 (a) clearly improve the efficiency of or reduce delay in the verification process; or

202 (b) provide for adjudication of unique individual circumstances where the verification
203 procedures in this section would impose an unusual hardship on a legal resident of Utah.

204 (8) It is unlawful for an agency or a political subdivision of this state to provide a state,
205 local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

206 (9) A state agency or department that administers a program of state or local public
207 benefits shall:

208 (a) provide an annual report to the governor, the president of the Senate, and the
209 speaker of the House regarding its compliance with this section; and

210 (b) (i) monitor the federal SAVE program for application verification errors and
211 significant delays;

212 (ii) provide an annual report on the errors and delays to ensure that the application of
213 the federal SAVE program is not erroneously denying a state or local benefit to a legal resident

214 of the state; and

215 (iii) report delays and errors in the federal SAVE program to the United States
216 Department of Homeland Security.

217 Section 3. Section **76-3-210** is enacted to read:

218 **76-3-210. Penalty and presumption of prison for a high-value property or**
219 **financial offense.**

220 (1) As used in this section, "high-value property or financial offense" means any of the
221 following offenses that is punishable as a felony:

222 (a) securities fraud, Sections 61-1-1 and 61-1-21;

223 (b) sale by an unlicensed broker-dealer, agent, or investment advisor, Sections 61-1-3
224 and 61-1-21;

225 (c) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;

226 (d) arson, Section 76-6-102;

227 (e) burglary, Section 76-6-202;

228 (f) theft, Section 76-6-412;

229 (g) forgery, Section 76-6-501;

230 (h) unlawful dealing of property by a fiduciary, Section 76-6-513;

231 (i) fraudulent insurance act, Section 76-6-521;

232 (j) computer crimes, Section 76-6-703;

233 (k) mortgage fraud, Sections 76-6-1203 and 76-6-1204;

234 (l) pattern of unlawful activity, Sections 76-10-1603 and 76-10-1603.5;

235 (m) communications fraud, Section 76-10-1801; or

236 (n) money laundering, Section 76-10-1904.

237 (2) Except as provided in Subsection (4), in a case involving a high-value property or
238 financial offense:

239 (a) if the trier of fact finds beyond a reasonable doubt that the economic loss due to the
240 offense is between \$50,000 and \$200,000, the offense is a second degree felony with an
241 indeterminate prison term of two to 15 years, with a presumption that the defendant should be
242 committed to prison;

243 (b) if the trier of fact finds beyond a reasonable doubt that the economic loss due to the
244 offense is between \$200,000 and \$1,000,000, the offense is a second degree felony with an

245 indeterminate prison term of three to 15 years, with a presumption that the defendant should be
246 committed to prison; or

247 (c) if the trier of fact finds beyond a reasonable doubt that the economic loss due to the
248 offense is over \$1,000,000, the offense is a second degree felony with an indeterminate prison
249 term of four to 15 years, with a presumption that the defendant should be committed to prison.

250 (3) If the sentencing court departs from a presumption of imprisonment in this section,
251 the sentencing court shall make the following findings, including supporting facts, on the
252 record:

253 (a) a sentence without imprisonment adequately punishes the defendant;

254 (b) a sentence without imprisonment protects the public from future crime;

255 (c) a sentence without imprisonment does not demean the seriousness of the offense;

256 and

257 (d) a sentence without imprisonment does not demean the impact on the victim.

258 (4) A penalty described in this section does not apply if the application of the penalty
259 would result in a lower maximum penalty than the penalty provided for under the section that
260 describes the offense for which the individual is being sentenced.

261 (5) For a defendant who is an employee as defined in Section [49-11-1401](#), the
262 forfeiture of retirement benefits described under Section [49-11-1401](#) may also apply in addition
263 to a penalty or presumption under this section.

264 Section 4. Section **76-6-102** is amended to read:

265 **76-6-102. Arson.**

266 (1) A person is guilty of arson if, under circumstances not amounting to aggravated
267 arson, the person by means of fire or explosives unlawfully and intentionally damages:

268 (a) any property with intention of defrauding an insurer; or

269 (b) the property of another.

270 (2) A violation of Subsection (1)(a) is a second degree felony.

271 (3) A violation of Subsection (1)(b) is a second degree felony if:

272 (a) the damage caused is or exceeds \$5,000 in value;

273 (b) as a proximate result of the fire or explosion, any person not a participant in the
274 offense suffers serious bodily injury as defined in Section [76-1-601](#);

275 (c) (i) the damage caused is or exceeds \$1,500 but is less than \$5,000 in value; and

276 (ii) at the time of the offense the actor has been previously convicted of a violation of
277 this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the
278 commission of the violation of Subsection (1)(b).

279 (4) A violation of Subsection (1)(b) is a third degree felony if:

280 (a) the damage caused is or exceeds \$1,500 but is less than \$5,000 in value;

281 (b) as a proximate result of the fire or explosion, any person not a participant in the
282 offense suffers substantial bodily injury as defined in Section 76-1-601;

283 (c) the fire or explosion endangers human life; or

284 (d) (i) the damage caused is or exceeds \$500 but is less than \$1,500 in value; and

285 (ii) at the time of the offense the actor has been previously convicted of a violation of
286 this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the
287 commission of the violation of Subsection (1)(b).

288 (5) A violation of Subsection (1)(b) is a class A misdemeanor if the damage caused:

289 (a) is or exceeds \$500 but is less than \$1,500 in value; or

290 (b) (i) is less than \$500; and

291 (ii) at the time of the offense the actor has been previously convicted of a violation of
292 this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the
293 commission of the violation of Subsection (1)(b).

294 (6) A violation of Subsection (1)(b) is a class B misdemeanor if the damage caused is
295 less than \$500.

296 (7) The penalties and presumptions for imprisonment for a high-value property or
297 financial offense described in Section 76-3-210 apply to a violation of this section.

298 Section 5. Section 76-6-202 is amended to read:

299 **76-6-202. Burglary.**

300 (1) An actor is guilty of burglary who enters or remains unlawfully in a building or any
301 portion of a building with intent to commit:

302 (a) a felony;

303 (b) theft;

304 (c) an assault on any person;

305 (d) lewdness, a violation of Section 76-9-702;

306 (e) sexual battery, a violation of Section 76-9-702.1;

307 (f) lewdness involving a child, in violation of Section [76-9-702.5](#); or

308 (g) voyeurism under Section [76-9-702.7](#).

309 (2) (a) [~~Burglary~~] A burglary is a third degree felony unless [~~it~~] the burglary was
310 committed in a dwelling, in which event [~~it~~] the burglary is a second degree felony.

311 (b) The penalties and presumptions for imprisonment for a high-value property or
312 financial offense described in Section [76-3-210](#) apply to a violation of this section.

313 (3) A violation of this section is a separate offense from any of the offenses listed in
314 Subsections (1)(a) through (g), and which may be committed by the actor while in the building.

315 Section 6. Section **76-6-412** is amended to read:

316 **76-6-412. Theft -- Classification of offenses -- Action for treble damages.**

317 (1) [~~Theft~~] Except as provided in Subsection (2), theft of property and services as
318 provided in this chapter is punishable:

319 (a) as a second degree felony if the:

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

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

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

323 (b) as a third degree felony if:

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

325 (ii) the value of the property or services is or exceeds \$500 and the actor has been twice
326 before convicted of any of the following offenses, if each prior offense was committed within

327 10 years before the date of the current conviction or the date of the offense upon which the

328 current conviction is based and at least one of those convictions is for a class A misdemeanor:

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

330 (B) any offense under Title 76, Chapter 6, Part 5, Fraud; or

331 (C) any attempt to commit any offense under Subsection (1)(b)(ii)(A) or (B);

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

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

335 (C) the offender has received written notice from the merchant prohibiting the offender
336 from entering the property [~~pursuant to~~] under Subsection [78B-3-108\(4\)](#); or

337 (iv) the actor has been previously convicted of a felony violation of any of the offenses

338 listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if the prior offense was committed
339 within 10 years before the date of the current conviction or the date of the offense upon which
340 the current conviction is based;

341 (c) as a class A misdemeanor if:

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

343 (ii) (A) the value of property or services is less than \$500;

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

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

348 (iii) the actor has been twice before convicted of any of the offenses listed in
349 Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10
350 years before the date of the current conviction or the date of the offense upon which the current
351 conviction is based; or

352 (d) as a class B misdemeanor if the value of the property stolen is less than \$500 and
353 the theft is not an offense under Subsection (1)(c).

354 (2) The penalties and presumptions for imprisonment for a high-value property or
355 financial offense described in Section 76-3-210 apply to a violation of this chapter and
356 Subsection 76-6-513(2).

357 [~~(2)~~] (3) Any individual who violates Subsection 76-6-408(2) or 76-6-413(1), or
358 commits theft of a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat,
359 mule, jack, jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes, or a
360 livestock guardian dog, is civilly liable for three times the amount of actual damages, if any
361 sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

362 Section 7. Section 76-6-501 is amended to read:

363 **76-6-501. Forgery and producing false identification -- Elements of offense --**

364 **Definitions.**

365 (1) As used in this part:

366 (a) "Authentication feature" means any hologram, watermark, certification, symbol,
367 code, image, sequence of numbers or letters, or other feature that either individually or in
368 combination with another feature is used by the issuing authority on an identification

369 document, document-making implement, or means of identification to determine if the
370 document is counterfeit, altered, or otherwise falsified.

371 (b) "Document-making implement" means any implement, impression, template,
372 computer file, computer disc, electronic device, computer hardware or software, or scanning
373 printing, or laminating equipment that is specifically configured or primarily used for making
374 an identification document, a false identification document, or another document-making
375 implement.

376 (c) "False authentication feature" means an authentication feature that:

377 (i) is genuine in origin but that, without the authorization of the issuing authority, has
378 been tampered with or altered for purposes of deceit;

379 (ii) is genuine, but has been distributed, or is intended for distribution, without the
380 authorization of the issuing authority and not in connection with a lawfully made identification
381 document, document-making implement, or means of identification to which the authentication
382 feature is intended to be affixed or embedded by the issuing authority; or

383 (iii) appears to be genuine, but is not.

384 (d) "False identification document" means a document of a type intended or commonly
385 accepted for the purposes of identification of individuals, and that:

386 (i) is not issued by or under the authority of a governmental entity or was issued under
387 the authority of a governmental entity but was subsequently altered for purposes of deceit; and

388 (ii) appears to be issued by or under the authority of a governmental entity.

389 (e) "Governmental entity" means the United States government, a state, a political
390 subdivision of a state, a foreign government, a political subdivision of a foreign government, an
391 international governmental organization, or a quasi-governmental organization.

392 (f) "Identification document" means a document made or issued by or under the
393 authority of a governmental entity, which, when completed with information concerning a
394 particular individual, is of a type intended or commonly accepted for the purpose of
395 identification of individuals.

396 (g) "Issuing authority" means:

397 (i) any governmental entity that is authorized to issue identification documents, means
398 of identification, or authentication features; or

399 (ii) a business organization or financial institution or [its] the organization's or

400 institution's agent that issues a financial transaction card as defined in Section 76-6-506.

401 (h) "Means of identification" means any name or number that may be used, alone or in
402 conjunction with any other information, to identify a specific individual, including:

403 (i) name, social security number, date of birth, government issued driver license or
404 identification number, alien registration number, government passport number, or employer or
405 taxpayer identification number;

406 (ii) unique biometric data, such as fingerprint, voice print, retina or iris image, or other
407 unique physical representation; or

408 (iii) unique electronic identification number, address, or routing code.

409 (i) "Personal identification card" means an identification document issued by a
410 governmental entity solely for the purpose of identification of an individual.

411 (j) "Produce" includes altering, authenticating, or assembling.

412 (k) "State" includes any state of the United States, the District of Columbia, the
413 Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the
414 United States.

415 (l) "Traffic" means to:

416 (i) transport, transfer, or otherwise dispose of an item to another, as consideration for
417 anything of value; or

418 (ii) make or obtain control of with intent to transport, transfer, or otherwise dispose of
419 an item to another.

420 (m) "Writing" includes printing, electronic storage or transmission, or any other
421 method of recording valuable information including forms such as:

422 (i) checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and any
423 other symbols of value, right, privilege, or identification;

424 (ii) a security, revenue stamp, or any other instrument or writing issued by a
425 government or any agency; or

426 (iii) a check, an issue of stocks, bonds, or any other instrument or writing representing
427 an interest in or claim against property, or a pecuniary interest in or claim against any person or
428 enterprise.

429 (2) A person is guilty of forgery if, with purpose to defraud anyone, or with knowledge
430 that the person is facilitating a fraud to be perpetrated by anyone, the person:

431 (a) alters any writing of another without his authority or utters the altered writing; or

432 (b) makes, completes, executes, authenticates, issues, transfers, publishes, or utters any
433 writing so that the writing or the making, completion, execution, authentication, issuance,
434 transference, publication, or utterance:

435 (i) purports to be the act of another, whether the person is existent or nonexistent;

436 (ii) purports to be an act on behalf of another party with the authority of that other
437 party; or

438 (iii) purports to have been executed at a time or place or in a numbered sequence other
439 than was in fact the case, or to be a copy of an original when an original did not exist.

440 (3) It is not a defense to a charge of forgery under Subsection (2)(b)(ii) if an actor signs
441 his own name to the writing if the actor does not have authority to make, complete, execute,
442 authenticate, issue, transfer, publish, or utter the writing on behalf of the party for whom the
443 actor purports to act.

444 (4) A person is guilty of producing or transferring any false identification document
445 who:

446 (a) knowingly and without lawful authority produces, attempts, or conspires to produce
447 an identification document, authentication feature, or a false identification document that is or
448 appears to be issued by or under the authority of an issuing authority;

449 (b) transfers, or possesses with intent to transfer, an identification document,
450 authentication feature, or a false identification document knowing that the document or feature
451 was stolen or produced without lawful authority;

452 (c) produces, transfers, or possesses a document-making implement or authentication
453 feature with the intent that the document-making implement or the authentication feature be
454 used in the production of a false identification document or another document-making
455 implement or authentication feature; or

456 (d) traffics in false or actual authentication features for use in false identification
457 documents, document-making implements, or means of identification.

458 (5) (a) A person who violates:

459 [~~(a)~~] (i) Subsection (2) is guilty of a third degree felony; and

460 [~~(b)~~] (ii) Subsection (4) is guilty of a second degree felony.

461 (b) The penalties and presumptions for imprisonment for a high-value property or

462 financial offense described in Section 76-3-210 apply to a violation of this section.

463 (6) This part may not be construed to impose criminal or civil liability on any law
464 enforcement officer acting within the scope of a criminal investigation.

465 (7) The forfeiture of property under this part, including any seizure and disposition of
466 the property and any related judicial or administrative proceeding, shall be conducted in
467 accordance with Title 24, Forfeiture and Disposition of Property Act.

468 (8) The court shall order, in addition to the penalty prescribed for any person convicted
469 of a violation of this section, the forfeiture and destruction or other disposition of all illicit
470 authentication features, identification documents, false transaction cards, document-making
471 implements, or means of identification.

472 Section 8. Section 76-6-513 is amended to read:

473 **76-6-513. Definitions -- Unlawful dealing of property by a fiduciary -- Penalties.**

474 (1) As used in this section:

475 (a) "Fiduciary" means the same as that term is defined in Section 22-1-1.

476 (b) "Financial institution" means "depository institution" and "trust company" as
477 defined in Section 7-1-103.

478 (c) "Governmental entity" is as defined in Section 63G-7-102.

479 (d) "Person" does not include a financial institution whose fiduciary functions are
480 supervised by the Department of Financial Institutions or a federal regulatory agency.

481 (e) "Property" means the same as that term is defined in Section 76-6-401.

482 (2) (a) A person is guilty of unlawfully dealing with property by a fiduciary if the
483 person deals with property that has been entrusted to ~~[him]~~ the person as a fiduciary, or
484 property of a governmental entity, public money, or of a financial institution, in a manner
485 which the person knows is a violation of the person's duty and which involves substantial risk
486 of loss or detriment to the owner or to a person for whose benefit the property was entrusted.

487 (b) A violation of ~~[this]~~ Subsection (2)(a) is:

488 (i) punishable under Section 76-6-412~~[-];~~ and

489 (ii) subject to the penalties and presumptions for imprisonment for a high-value
490 property or financial offense described in Section 76-3-210.

491 (3) (a) A person acting as a fiduciary is guilty of a violation of this subsection if,
492 without permission of the owner of the property or some other person with authority to give

493 permission, the person pledges as collateral for a personal loan, or as collateral for the benefit
 494 of some party, other than the owner or the person for whose benefit the property was entrusted,
 495 the property that has been entrusted to the fiduciary.

496 (b) ~~[Aa]~~ Except as provided in Subsection (3)(c), an offense under Subsection (3)(a) is
 497 punishable as:

498 (i) a felony of the second degree if the value of the property wrongfully pledged is or
 499 exceeds \$5,000;

500 (ii) a felony of the third degree if the value of the property wrongfully pledged is or
 501 exceeds \$1,500 but is less than \$5,000;

502 (iii) a class A misdemeanor if the value of the property is or exceeds \$500, but is less
 503 than \$1,500 or the actor has been twice before convicted of theft, robbery, burglary with intent
 504 to commit theft, or unlawful dealing with property by a fiduciary; or

505 (iv) a class B misdemeanor if the value of the property is less than \$500.

506 (c) The penalties and presumptions for imprisonment for a high-value property or
 507 financial offense described in Section 76-3-210 apply to a violation of Subsection (3)(a).

508 Section 9. Section **76-6-521** is amended to read:

509 **76-6-521. Fraudulent insurance act.**

510 (1) A person commits a fraudulent insurance act if that person with intent to defraud:

511 (a) presents or causes to be presented any oral or written statement or representation
 512 knowing that the statement or representation contains false or fraudulent information
 513 concerning any fact material to an application for the issuance or renewal of an insurance
 514 policy, certificate, or contract, as part of or in support of:

515 (i) obtaining an insurance policy the insurer would otherwise not issue on the basis of
 516 underwriting criteria applicable to the person;

517 (ii) a scheme or artifice to avoid paying the premium that an insurer charges on the
 518 basis of underwriting criteria applicable to the person; or

519 (iii) a scheme or artifice to file an insurance claim for a loss that has already occurred;

520 (b) presents, or causes to be presented, any oral or written statement or representation:

521 (i) (A) as part of or in support of a claim for payment or other benefit ~~[pursuant to]~~
 522 under an insurance policy, certificate, or contract; or

523 (B) in connection with any civil claim asserted for recovery of damages for personal or

524 bodily injuries or property damage; and

525 (ii) knowing that the statement or representation contains false, incomplete, or
526 fraudulent information concerning any fact or thing material to the claim;

527 (c) knowingly accepts a benefit from proceeds derived from a fraudulent insurance act;

528 (d) intentionally, knowingly, or recklessly devises a scheme or artifice to obtain fees
529 for professional services, or anything of value by means of false or fraudulent pretenses,
530 representations, promises, or material omissions;

531 (e) knowingly employs, uses, or acts as a runner, as defined in Section 31A-31-102, for
532 the purpose of committing a fraudulent insurance act;

533 (f) knowingly assists, abets, solicits, or conspires with another to commit a fraudulent
534 insurance act;

535 (g) knowingly supplies false or fraudulent material information in any document or
536 statement required by the Department of Insurance; or

537 (h) knowingly fails to forward a premium to an insurer in violation of Section
538 31A-23a-411.1.

539 (2) (a) A violation of Subsection (1)(a)(i) is a class A misdemeanor.

540 (b) A violation of Subsections (1)(a)(ii) or (1)(b) through (1)(h) is:

541 (i) punishable [as] in the manner prescribed by Section 76-10-1801 for communication
542 fraud for property of like value[-]; and

543 (ii) subject to the penalties and presumptions for imprisonment for a high-value
544 property or financial offense described in Section 76-3-210.

545 (c) A violation of Subsection (1)(a)(iii):

546 (i) is a class A misdemeanor if the value of the loss is less than \$1,500 or unable to be
547 determined; or

548 (ii) if the value of the loss is \$1,500 or more, is:

549 (A) punishable [as] in the manner prescribed by Section 76-10-1801 for
550 communication fraud for property of like value[-]; and

551 (B) subject to the penalties and presumptions for imprisonment for a high-value
552 property or financial offense described in Section 76-3-210.

553 (3) A corporation or association is guilty of the offense of insurance fraud under the
554 same conditions as those set forth in Section 76-2-204.

555 (4) The determination of the degree of any offense under Subsections (1)(a)(ii) and
556 (1)(b) through (1)(h) shall be measured by the total value of all property, money, or other things
557 obtained or sought to be obtained by the fraudulent insurance act or acts described in
558 Subsections (1)(a)(ii) and (1)(b) through (1)(h).

559 Section 10. Section **76-6-703** is amended to read:

560 **76-6-703. Computer crimes and penalties -- Interfering with critical**
561 **infrastructure.**

562 (1) It is unlawful for a person to:

563 (a) without authorization, or in excess of the person's authorization, access or attempt
564 to access computer technology if the access or attempt to access results in:

565 (i) the alteration, damage, destruction, copying, transmission, discovery, or disclosure
566 of computer technology;

567 (ii) interference with or interruption of:

568 (A) the lawful use of computer technology; or

569 (B) the transmission of data;

570 (iii) physical damage to or loss of real, personal, or commercial property;

571 (iv) audio, video, or other surveillance of another person; or

572 (v) economic loss to any person or entity;

573 (b) after accessing computer technology that the person is authorized to access,
574 knowingly take or attempt to take unauthorized or unlawful action that results in:

575 (i) the alteration, damage, destruction, copying, transmission, discovery, or disclosure
576 of computer technology;

577 (ii) interference with or interruption of:

578 (A) the lawful use of computer technology; or

579 (B) the transmission of data;

580 (iii) physical damage to or loss of real, personal, or commercial property;

581 (iv) audio, video, or other surveillance of another person; or

582 (v) economic loss to any person or entity; or

583 (c) knowingly engage in a denial of service attack.

584 (2) (a) A person who violates Subsection (1) is guilty of:

585 [~~(a)~~] (i) a class B misdemeanor when:

586 [(i)] (A) the economic loss or other loss or damage caused or the value of the money,
587 property, or benefit obtained or sought to be obtained is less than \$500; or

588 [(ii)] (B) the information obtained is not confidential;

589 [(b)] (ii) a class A misdemeanor when the economic loss or other loss or damage
590 caused or the value of the money, property, or benefit obtained or sought to be obtained is or
591 exceeds \$500 but is less than \$1,500;

592 [(c)] (iii) a third degree felony when the economic loss or other loss or damage caused
593 or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds
594 \$1,500 but is less than \$5,000;

595 [(d)] (iv) subject to Subsection (2)(b), a second degree felony when the economic loss
596 or other loss or damage caused or the value of the money, property, or benefit obtained or
597 sought to be obtained is or exceeds \$5,000; or

598 [(e)] (v) a third degree felony when:

599 [(i)] (A) the property or benefit obtained or sought to be obtained is a license or
600 entitlement;

601 [(ii)] (B) the damage is to the license or entitlement of another person;

602 [(iii)] (C) the information obtained is confidential or identifying information; or

603 [(iv)] (D) in gaining access the person breaches or breaks through a security system.

604 (b) A person who is guilty under Subsection (2)(a)(iv) is subject to the penalties and
605 presumptions for imprisonment for a high-value property or financial offense described in
606 Section 76-3-210.

607 (3) (a) A person who intentionally or knowingly and without authorization gains or
608 attempts to gain access to a computer, computer network, computer property, or computer
609 system under circumstances not otherwise constituting an offense under this section is guilty of
610 a class B misdemeanor.

611 (b) Notwithstanding Subsection (3)(a), a retailer that uses an electronic product
612 identification or tracking system, or other technology, to identify, track, or price goods is not
613 guilty of a violation of Subsection (3)(a) if the equipment designed to read the electronic
614 product identification or tracking system data and used by the retailer to identify, track, or price
615 goods is located within the retailer's location.

616 (4) (a) A person who, with intent that electronic communication harassment occur,

617 discloses or disseminates another person's identifying information with the expectation that
618 others will further disseminate or use the person's identifying information is subject to the
619 penalties outlined in Subsection (4)(b).

620 (b) If the disclosure or dissemination of another person's identifying information results
621 in electronic communication harassment, as described in Section 76-9-201, of the person
622 whose identifying information is disseminated, the person disseminating the information is
623 guilty of:

624 (i) a class B misdemeanor if the person whose identifying information is disseminated
625 is an adult; or

626 (ii) a class A misdemeanor if the person whose identifying information is disseminated
627 is a minor.

628 (c) A second offense under Subsection (4)(b)(i) is a class A misdemeanor.

629 (d) A second offense under Subsection (4)(b)(ii), and a third or subsequent offense
630 under [this] Subsection (4)(b), is a third degree felony.

631 (5) A person who uses or knowingly allows another person to use any computer,
632 computer network, computer property, or computer system, program, or software to devise or
633 execute any artifice or scheme to defraud or to obtain money, property, services, or other things
634 of value by false pretenses, promises, or representations, is:

635 (a) guilty of an offense based on the value of the money, property, services, or things of
636 value, in the degree set forth in Subsection 76-10-1801(1)[-]; and

637 (b) subject to the penalties and presumptions for imprisonment for a high-value
638 property or financial offense described in Section 76-3-210.

639 (6) A person is guilty of a third degree felony if the person intentionally or knowingly,
640 and without lawful authorization, interferes with or interrupts critical infrastructure.

641 (7) It is an affirmative defense to Subsection (1), (2), or (3) that a person obtained
642 access or attempted to obtain access:

643 (a) in response to, and for the purpose of protecting against or investigating, a prior
644 attempted or successful breach of security of computer technology whose security the person is
645 authorized or entitled to protect, and the access attempted or obtained was no greater than
646 reasonably necessary for that purpose; or

647 (b) [~~pursuant to~~] under a search warrant or a lawful exception to the requirement to

648 obtain a search warrant.

649 (8) (a) An interactive computer service is not guilty of violating this section if a person
650 violates this section using the interactive computer service and the interactive computer service
651 did not knowingly assist the person to commit the violation.

652 (b) A service provider is not guilty of violating this section for:

653 (i) action taken in relation to a customer of the service provider, for a legitimate
654 business purpose, to install software on, monitor, or interact with the customer's Internet or
655 other network connection, service, or computer for network or computer security purposes,
656 authentication, diagnostics, technical support, maintenance, repair, network management,
657 updates of computer software or system firmware, or remote system management; or

658 (ii) action taken, including scanning and removing computer software, to detect or
659 prevent the following:

660 (A) unauthorized or fraudulent use of a network, service, or computer software;

661 (B) illegal activity; or

662 (C) infringement of intellectual property rights.

663 (9) Subsections (4)(a) and (b) do not apply to a person who provides information in
664 conjunction with a report under Title 34A, Chapter 6, Utah Occupational Safety and Health
665 Act, or Title 67, Chapter 21, Utah Protection of Public Employees Act.

666 (10) In accordance with 47 U.S.C.A. Sec. 230, this section may not apply to, and
667 nothing in this section may be construed to impose liability or culpability on, an interactive
668 computer service for content provided by another person.

669 (11) This section does not affect, limit, or apply to any activity or conduct that is
670 protected by the constitution or laws of this state or by the constitution or laws of the United
671 States.

672 Section 11. Section **76-6-1204** is amended to read:

673 **76-6-1204. Classification of offense.**

674 (1) (a) Notwithstanding any other administrative, civil, or criminal penalties, a person
675 who violates Section **76-6-1203** is guilty of [a]:

676 [~~a~~] (i) a class A misdemeanor when the value is or exceeds \$500 but is less than
677 \$1,500;

678 [~~b~~] (ii) a third degree felony when the value is or exceeds \$1,500 but is less than

679 \$5,000;

680 ~~[(c)]~~ (iii) subject to Subsection (1)(b), a second degree felony when the value is or
681 exceeds \$5,000; and

682 ~~[(d)]~~ (iv) a second degree felony when the object or purpose of the commission of an
683 act of mortgage fraud is the obtaining of sensitive personal identifying information, regardless
684 of the value.

685 (b) A person who is guilty under Subsection (1)(a)(iii) is subject to the penalties and
686 presumptions for imprisonment for a high-value property or financial offense described in
687 Section 76-3-210.

688 (2) The determination of the degree of any offense under Subsection (1) is measured by
689 the total value of all property, money, or things obtained or sought to be obtained by a violation
690 of Section 76-6-1203, except as provided in Subsection (1)~~[(d)]~~(a)(iv).

691 (3) Each residential or commercial property transaction offense under this part
692 constitutes a separate violation.

693 Section 12. Section **76-8-504** is amended to read:

694 **76-8-504. Written false statement.**

695 ~~[A person is guilty of a class B misdemeanor if:]~~

696 (1) ~~[He makes a]~~ An actor commits the offense of written false statement [which he] if:

697 (a) the actor makes a statement that the actor does not believe to be true on or [pursuant
698 to] under a form bearing a notification authorized by law to the effect that false statements
699 made therein are punishable; or

700 ~~[(2)]~~ (b) ~~[With]~~ with intent to deceive a public servant in the performance of ~~[his]~~ the
701 public servant's official function, [he] the actor:

702 ~~[(a)]~~ (i) ~~[Makes any]~~ makes a written false statement ~~[which he]~~ that the actor does not
703 believe to be true; [or]

704 ~~[(b)]~~ (ii) ~~[Knowingly]~~ knowingly creates a false impression in a written application for
705 ~~[any]~~ a pecuniary or other benefit by omitting information necessary to prevent ~~[statements~~
706 ~~therein]~~ a statement in the application from being misleading; [or]

707 ~~[(c)]~~ (iii) ~~[Submits]~~ submits or invites reliance on ~~[any writing which he]~~ a writing that
708 the actor knows to be lacking in authenticity; or

709 ~~[(d)]~~ (iv) ~~[Submits]~~ submits or invites reliance on ~~[any]~~ a sample, specimen, map,

710 boundary mark, or other object [~~which he~~] that the actor knows to be false.

711 (2) (a) Except as provided in Subsection (2)(b), a violation of Subsection (1) is a class
712 B misdemeanor.

713 (b) A violation of Subsection (1) is a third degree felony if the false statement is on a
714 financial declaration described in Section [77-38b-204](#).

715 [~~(3)~~] (3) [No person shall be guilty under this section if he] It is not an offense under
716 this section if the actor retracts the falsification before it becomes manifest that the falsification
717 was or would be exposed.

718 Section 13. Section **76-10-1603.5** is amended to read:

719 **76-10-1603.5. Violation a felony -- Costs -- Fines -- Divestiture -- Restrictions --**
720 **Dissolution or reorganization -- Prior restraint.**

721 (1) As used in this section, "net proceeds" means property acquired as a result of a
722 violation of an offense minus the direct costs of acquiring the property.

723 [~~(1)~~] (2) (a) A person who violates any provision of Section [76-10-1603](#) is:

724 (i) guilty of a second degree felony[;]; and

725 (ii) subject to the penalties and presumptions for imprisonment for a high-value
726 property or financial offense described in Section [76-3-210](#).

727 (b) In addition to penalties prescribed by law, the court may order the person found
728 guilty of the felony to pay to the state, if the attorney general brought the action, or to the
729 county, if the county attorney or district attorney brought the action, the costs of investigating
730 and prosecuting the offense and the costs of securing the forfeitures provided for in this
731 section.

732 [~~(2)~~] (3) In lieu of a fine otherwise authorized by law for a violation of Section
733 [76-10-1603](#), a defendant who derives net proceeds from a conduct prohibited by Section
734 [76-10-1603](#) may be fined not more than twice the amount of the net proceeds.

735 [~~(3)~~] (4) Upon conviction for violating any provision of Section [76-10-1603](#), and in
736 addition to any penalty prescribed by law, the court may do any or all of the following:

737 (a) order restitution to any victim or rightful owner of property obtained, directly or
738 indirectly, from:

739 (i) the conduct constituting the pattern of unlawful activity; or

740 (ii) any act or conduct constituting the pattern of unlawful activity that is proven as part

741 of the violation of any provision of Section 76-10-1603;

742 (b) order the person to divest himself of any interest in or any control, direct or
743 indirect, of any enterprise;

744 (c) impose reasonable restrictions on the future activities or investments of any person,
745 including prohibiting the person from engaging in the same type of endeavor as the enterprise
746 engaged in, to the extent the Utah Constitution and the Constitution of the United States
747 permit; or

748 (d) order the dissolution or reorganization of any enterprise.

749 ~~[(4)]~~ (5) If a violation of Section 76-10-1603 is based on a pattern of unlawful activity
750 consisting of acts or conduct in violation of Section 76-10-1204, 76-10-1205, 76-10-1206, or
751 76-10-1222, the court may not enter any order that would amount to a prior restraint on the
752 exercise of an affected party's rights under the First Amendment to the Constitution of the
753 United States or Utah Constitution Article I, Section 15.

754 ~~[(5) For purposes of this section, the "net proceeds" of an offense means property
755 acquired as a result of the violation minus the direct costs of acquiring the property.]~~

756 Section 14. Section 76-10-1801 is amended to read:

757 **76-10-1801. Communications fraud -- Elements -- Penalties.**

758 (1) (a) Any person who has devised any scheme or artifice to defraud another or to
759 obtain from another money, property, or anything of value by means of false or fraudulent
760 pretenses, representations, promises, or material omissions, and who communicates directly or
761 indirectly with any person by any means for the purpose of executing or concealing the scheme
762 or artifice is guilty of:

763 ~~[(a)]~~ (i) a class B misdemeanor when the value of the property, money, or thing
764 obtained or sought to be obtained is less than \$500;

765 ~~[(b)]~~ (ii) a class A misdemeanor when the value of the property, money, or thing
766 obtained or sought to be obtained is or exceeds \$500 but is less than \$1,500;

767 ~~[(c)]~~ (iii) a third degree felony when the value of the property, money, or thing obtained
768 or sought to be obtained is or exceeds \$1,500 but is less than \$5,000;

769 ~~[(d)]~~ (iv) subject to Subsection (1)(b), a second degree felony when the value of the
770 property, money, or thing obtained or sought to be obtained is or exceeds \$5,000; and

771 ~~[(e)]~~ (v) a second degree felony when the object or purpose of the scheme or artifice to

772 defraud is the obtaining of sensitive personal identifying information, regardless of the value.

773 (b) A person who is guilty under Subsection (1)(a)(iv) is subject to the penalties and
774 presumptions for imprisonment for a high-value property or financial offense described in
775 Section 76-3-210.

776 (2) The determination of the degree of any offense under Subsection (1)(a) shall be
777 measured by the total value of all property, money, or things obtained or sought to be obtained
778 by the scheme or artifice described in Subsection (1)(a) except as provided in Subsection
779 ~~(1)(e)~~ (1)(a)(v).

780 (3) Reliance on the part of any person is not a necessary element of the offense
781 described in Subsection (1)(a).

782 (4) An intent on the part of the perpetrator of any offense described in Subsection
783 (1)(a) to permanently deprive any person of property, money, or thing of value is not a
784 necessary element of the offense.

785 (5) Each separate communication made for the purpose of executing or concealing a
786 scheme or artifice described in Subsection (1)(a) is a separate act and offense of
787 communication fraud.

788 (6) (a) To communicate as described in Subsection (1)(a) means to:

789 (i) bestow, convey, make known, recount, or impart;

790 (ii) give by way of information;

791 (iii) talk over; or

792 (iv) transmit information.

793 (b) Means of communication include use of the mail, telephone, telegraph, radio,
794 television, newspaper, computer, and spoken and written communication.

795 (7) A person may not be convicted under this section unless the pretenses,
796 representations, promises, or material omissions made or omitted were made or omitted
797 intentionally, knowingly, or with a reckless disregard for the truth.

798 (8) As used in this section, "sensitive personal identifying information" means
799 information regarding an individual's:

800 (a) ~~[Social Security]~~ social security number;

801 (b) driver's license number or other government issued identification number;

802 (c) financial account number or credit or debit card number;

- 803 (d) password or personal identification number or other identification required to gain
804 access to a financial account or a secure website;
- 805 (e) automated or electronic signature;
- 806 (f) unique biometric data; or
- 807 (g) any other information that can be used to gain access to an individual's financial
808 accounts or to obtain goods or services.

809 Section 15. Section **76-10-1904** is amended to read:

810 **76-10-1904. Money laundering -- Penalty.**

811 (1) A person who violates Subsection **76-10-1903**(1)(a), (b), or (c) is:

812 (a) guilty of a second degree felony[-]; and

813 (b) subject to the penalties and presumptions for imprisonment for a high-value
814 property or financial offense described in Section **76-3-210**.

815 (2) A person who violates Subsection **76-10-1903**(1)(d) is guilty of a third degree
816 felony.

817 Section 16. Section **77-32b-103** is amended to read:

818 **77-32b-103. Establishment of a criminal accounts receivable -- Responsibility --**
819 **Payment schedule -- Delinquency or default.**

820 (1) (a) Except as provided in Subsection (1)(b) and (c), at the time of sentencing or
821 acceptance of a plea in abeyance, the court shall enter an order to establish a criminal accounts
822 receivable for the defendant.

823 (b) The court is not required to create a criminal accounts receivable for the defendant
824 under Subsection (1)(a) if the court finds that the defendant does not owe restitution and there
825 are no other fines or fees to be assessed against the defendant.

826 (c) Subject to Subsection **77-38b-205**(5), if the court does not create a criminal
827 accounts receivable for a defendant under Subsection (1)(a), the court shall enter an order to
828 establish a criminal accounts receivable for the defendant at the time the court enters an order
829 for restitution under Section **77-38b-205**.

830 (2) After establishing a criminal accounts receivable for a defendant, the court shall:

831 (a) if a prison sentence is imposed and not suspended for the defendant:

832 (i) accept any payment for the criminal accounts receivable that is tendered on the date
833 of sentencing; and

834 (ii) transfer the responsibility of receiving, distributing, and processing payments for
835 the criminal accounts receivable to the Office of State Debt Collection; and

836 (b) for all other cases:

837 (i) retain the responsibility for receiving, processing, and distributing payments for the
838 criminal accounts receivable until the court enters a civil accounts receivable or civil judgment
839 of restitution on the civil judgment docket under Subsection [77-18-114\(1\)](#) or (2); and

840 (ii) record each payment by the defendant on the case docket.

841 (c) For a criminal accounts receivable that a court retains responsibility for receiving,
842 processing, and distributing payments under Subsection (2)(b)(i), the Judicial Council may
843 establish rules to require a defendant to pay the cost, or a portion of the cost, that is charged by
844 a financial institution for the use of a credit or debit card by the defendant to make payments
845 towards the criminal accounts receivable.

846 (3) (a) Upon entering an order for a criminal accounts receivable, the court shall
847 establish a payment schedule for the defendant to make payments towards the criminal
848 accounts receivable.

849 (b) In establishing the payment schedule for the defendant, the court shall consider:

850 (i) the needs of the victim if the criminal accounts receivable includes an order for
851 restitution under Section [77-38b-205](#);

852 (ii) the financial resources of the defendant, as disclosed in the financial declaration
853 under Section [77-38b-204](#) or in evidence obtained by subpoena under Subsection
854 [77-38b-402\(1\)\(b\)](#);

855 (iii) the burden that the payment schedule will impose on the defendant regarding the
856 other reasonable obligations of the defendant;

857 (iv) the ability of the defendant to pay restitution on an installment basis or on other
858 conditions fixed by the court;

859 (v) the rehabilitative effect on the defendant of the payment of restitution and method
860 of payment; and

861 (vi) any other circumstance that the court determines is relevant.

862 (4) A payment schedule for a criminal accounts receivable does not limit the ability of
863 a judgment creditor to pursue collection by any means allowable by law.

864 (5) If the court orders restitution under Section [77-38b-205](#), or makes another financial

865 decision, after sentencing that increases the total amount owed in a defendant's case, the
866 defendant's criminal accounts receivable balance shall be adjusted to include any new amount
867 ordered by the court.

868 (6) (a) If a defendant is incarcerated in a county jail or a secure correctional facility, as
869 defined in Section 64-13-1, or the defendant is involuntarily committed under Section
870 62A-15-631:

871 (i) all payments for a payment schedule shall be suspended for the period of time that
872 the defendant is incarcerated or involuntarily committed, unless the court, or the board if the
873 defendant is under the jurisdiction of the board, expressly orders the defendant to make
874 payments according to the payment schedule; and

875 (ii) the defendant shall provide the court with notice of the incarceration or involuntary
876 commitment.

877 (b) A suspension under Subsection (6)(a) shall remain in place for 60 days after the day
878 in which the defendant is released from incarceration or commitment.

879 Section 17. Section 77-38b-204 is amended to read:

880 **77-38b-204. Financial declaration by defendant.**

881 (1) (a) The Judicial Council shall design and publish a financial declaration form to be
882 completed by a defendant before the sentencing court establishes a payment schedule under
883 Section 77-38b-205.

884 (b) The financial declaration form shall:

885 (i) require a defendant to disclose all assets, income, and financial liabilities of the
886 defendant, including:

887 (A) real property;

888 (B) vehicles;

889 (C) precious metals or gems;

890 (D) jewelry with a value of \$1,000 or more;

891 (E) other personal property with a value of \$1,000 or more;

892 (F) the balance of any bank account and the name of the financial institution for the
893 bank account;

894 (G) cash;

895 (H) salary, wages, commission, tips, and business income, including the name of any

896 employer or entity from which the defendant receives a salary, wage, commission, tip, or
897 business income;

898 (I) pensions and annuities;

899 (J) intellectual property;

900 (K) accounts receivable;

901 (L) accounts payable;

902 (M) mortgages, loans, and other debts; and

903 (N) restitution that has been ordered, and not fully paid, in other cases; and

904 (ii) state that a false statement made in the financial declaration form is punishable as
905 ~~[a class B misdemeanor]~~ third degree felony under Section 76-8-504.

906 (2) After a plea disposition or conviction has been entered but before sentencing, a
907 defendant shall complete the financial declaration form described in Subsection (1).

908 (3) When a civil judgment of restitution or a civil accounts receivable is entered for a
909 defendant on the civil judgment docket under Section 77-18-114, the court shall provide the
910 Office of State Debt Collection with the defendant's financial declaration form.

911 Section 18. Section ~~77-38b-402~~ is amended to read:

912 **77-38b-402. Preservation of assets.**

913 (1) (a) Before, or at the time, a criminal information, indictment charging a violation,
914 or a petition alleging delinquency is filed, or at any time during the prosecution of the case, a
915 prosecuting attorney may, if in the prosecuting attorney's best judgment there is a substantial
916 likelihood that a conviction will be obtained and restitution will be ordered in the case, petition
917 the court to:

918 ~~[(a)]~~ (i) enter a temporary restraining order, an injunction, or both;

919 ~~[(b)]~~ (ii) require the execution of a satisfactory performance bond; or

920 ~~[(c)]~~ (iii) take any other action to preserve the availability of property that may be
921 necessary to satisfy an anticipated order for restitution.

922 (b) A prosecuting attorney may subpoena a document, witness, or other evidence that,
923 in the prosecuting attorney's best judgment, may provide evidence relevant to the property
924 described in Subsection (1)(a)(iii).

925 (2) (a) Upon receiving a request from a prosecuting attorney under Subsection (1)(a),
926 and after notice to a person appearing to have an interest in the property and affording the

927 person an opportunity to be heard, the court may take action as requested by the prosecuting
928 attorney if the court determines:

929 (i) there is probable cause to believe that an offense has been committed and that the
930 defendant committed the offense, and that failure to enter the order will likely result in the
931 property being sold, distributed, exhibited, destroyed, or removed from the jurisdiction of the
932 court, or otherwise be made unavailable for restitution; and

933 (ii) the need to preserve the availability of the property or prevent the property's sale,
934 distribution, exhibition, destruction, or removal through the entry of the requested order
935 outweighs the hardship on any party against whom the order is to be entered.

936 (b) In a hearing conducted in accordance with this section, a court may consider
937 reliable hearsay as defined in Utah Rules of Evidence, Rule 1102.

938 (c) An order for an injunction entered under this section is effective for the period of
939 time given in the order.

940 (3) (a) Upon receiving a request for a temporary restraining order from a prosecuting
941 attorney under this section, a court may enter a temporary restraining order against an owner
942 with respect to specific property without notice or opportunity for a hearing if:

943 (i) the prosecuting attorney demonstrates that there is a substantial likelihood that the
944 property with respect to which the order is sought appears to be necessary to satisfy an
945 anticipated restitution order under this chapter; and

946 (ii) provision of notice would jeopardize the availability of the property to satisfy any
947 judgment or order for restitution.

948 (b) The temporary order in this Subsection (3) expires no later than 10 days after the
949 day on which the temporary order is entered unless extended for good cause shown or the party
950 against whom the temporary order is entered consents to an extension.

951 (4) A hearing concerning an order entered under this section shall be held as soon as
952 possible, and before the expiration of the temporary order.