

1 **CRIMINAL CODE RECODIFICATION AND CROSS**

2 **REFERENCES**

3 2023 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Matthew H. Gwynn**

6 Senate Sponsor: Todd D. Weiler

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions in Title 76, Utah Criminal Code, by redrafting offense
11 statutes into a new structure and clarifies existing law.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ reorders language into a standardized format and clarifies existing law, including
15 the offenses in Title 76, Chapter 6, Offenses Against Property, and Chapter 6a,

16 Pyramid Scheme Act;

17 ▶ moves penalty enhancement statutes to part concerning penalty enhancements;

18 ▶ for clarity, revises penalty provisions in several offenses in Title 76, Chapter 5,
19 Offenses Against the Individual;

20 ▶ for clarity, codifies names of offenses;

21 ▶ reorganizes the offenses of criminal mischief and property damage or destruction by
22 enacting property damage or destruction as a stand-alone statute;

23 ▶ reorganizes the offense concerning defacement by graffiti;

24 ▶ reorganizes the offenses of criminal trespass on agricultural land or range land and
25 cutting, destroying, or rendering ineffective fencing of agricultural or range land by
26 enacting cutting, destroying, or rendering ineffective fencing of agricultural or range
27 land as a stand-alone statute;

28 ▶ repeals stand-alone penalty statute for theft and incorporates penalty information

- 29 into applicable statutes;
- 30 ▶ renames the offense of wrongful appropriation to unauthorized possession of
- 31 property;
- 32 ▶ renames the offense of receiving stolen property to theft by receiving stolen
- 33 property;
- 34 ▶ reorganizes the offenses of forgery and producing or transferring false identification
- 35 by enacting producing or transferring false identification as a stand-alone statute;
- 36 ▶ clarifies application of law enforcement defense and forfeiture provisions as applied
- 37 to fraud offenses;
- 38 ▶ reorganizes the offenses of wrongful liens and fraudulent handling of recordable
- 39 writings by enacting fraudulent handling of recordable writings as a stand-alone
- 40 offense;
- 41 ▶ reorganizes financial transaction card offenses by enacting separate stand-alone
- 42 offenses;
- 43 ▶ reorganizes computer crimes offenses by enacting separate stand-alone offenses;
- 44 ▶ for clarity, revises names of offenses concerning library theft;
- 45 ▶ reorganizes offenses concerning cultural sites protection by enacting separate
- 46 stand-alone offenses and incorporating existing penalties into each offense;
- 47 ▶ repeals the stand-alone penalty statute for violations by metal dealers and
- 48 incorporates the penalty information into new offense sections enacted adjacent to
- 49 the relevant statutory requirements;
- 50 ▶ for clarity, reorganizes offenses concerning pyramid schemes; and
- 51 ▶ makes technical and conforming changes.

52 **Money Appropriated in this Bill:**

53 None

54 **Other Special Clauses:**

55 None

56 **Utah Code Sections Affected:**

57 AMENDS:

- 58 **13-19-3**, as last amended by Laws of Utah 2018, Chapter 433
- 59 **24-1-102**, as last amended by Laws of Utah 2022, Chapter 179
- 60 **26-7-14**, as last amended by Laws of Utah 2022, Chapter 430
- 61 **26-20-9**, as last amended by Laws of Utah 2007, Chapter 48
- 62 **31A-23a-409**, as last amended by Laws of Utah 2021, Chapter 252
- 63 **31A-36-118**, as last amended by Laws of Utah 2009, Chapter 355
- 64 **35A-4-312.5**, as last amended by Laws of Utah 2011, Chapter 57
- 65 **41-1a-1314**, as last amended by Laws of Utah 2005, Chapter 71
- 66 **58-9-607**, as last amended by Laws of Utah 2020, Chapter 251
- 67 **58-9-613**, as enacted by Laws of Utah 2018, Chapter 326
- 68 **58-55-503**, as last amended by Laws of Utah 2022, Chapter 415
- 69 **63M-7-404**, as last amended by Laws of Utah 2022, Chapters 115, 185 and 328
- 70 **73-2-27**, as last amended by Laws of Utah 2015, Chapters 245, 249
- 71 **76-3-203.1**, as last amended by Laws of Utah 2022, Chapter 185
- 72 **76-3-203.3**, as last amended by Laws of Utah 2020, Chapter 394
- 73 **76-3-203.5**, as last amended by Laws of Utah 2022, Chapters 181, 185 and 418
- 74 **76-5-102.1**, as enacted by Laws of Utah 2022, Chapter 116
- 75 **76-5-207.5**, as last amended by Laws of Utah 2022, Chapters 181, 426
- 76 **76-5-208**, as last amended by Laws of Utah 2022, Chapter 181
- 77 **76-6-101**, as last amended by Laws of Utah 2011, Chapter 340
- 78 **76-6-102**, as last amended by Laws of Utah 2022, Chapter 181
- 79 **76-6-103**, as last amended by Laws of Utah 1986, Chapter 59
- 80 **76-6-104**, as last amended by Laws of Utah 2010, Chapter 193
- 81 **76-6-104.5**, as last amended by Laws of Utah 2009, Chapter 320
- 82 **76-6-105**, as last amended by Laws of Utah 2002, Chapter 166

- 83 [76-6-106](#), as last amended by Laws of Utah 2012, Chapter 135
- 84 [76-6-107](#), as last amended by Laws of Utah 2019, Chapters 292, 494
- 85 [76-6-107.5](#), as enacted by Laws of Utah 2019, Chapter 292
- 86 [76-6-108](#), as last amended by Laws of Utah 2000, Chapter 54
- 87 [76-6-111](#), as last amended by Laws of Utah 2021, Chapters 57, 260
- 88 [76-6-112](#), as enacted by Laws of Utah 2012, Chapter 213
- 89 [76-6-202](#), as last amended by Laws of Utah 2012, Chapter 303
- 90 [76-6-203](#), as last amended by Laws of Utah 2022, Chapter 181
- 91 [76-6-204](#), as enacted by Laws of Utah 1973, Chapter 196
- 92 [76-6-204.5](#), as enacted by Laws of Utah 2008, Chapter 366
- 93 [76-6-205](#), as enacted by Laws of Utah 1973, Chapter 196
- 94 [76-6-206](#), as last amended by Laws of Utah 2022, Chapter 87
- 95 [76-6-206.1](#), as enacted by Laws of Utah 1997, Chapter 223
- 96 [76-6-206.2](#), as last amended by Laws of Utah 2021, Chapters 260, 280
- 97 [76-6-206.3](#), as last amended by Laws of Utah 2022, Chapter 87
- 98 [76-6-206.4](#), as enacted by Laws of Utah 2017, Chapter 287
- 99 [76-6-301](#), as last amended by Laws of Utah 2004, Chapter 112
- 100 [76-6-302](#), as last amended by Laws of Utah 2022, Chapter 181
- 101 [76-6-403](#), as last amended by Laws of Utah 1974, Chapter 32
- 102 [76-6-404](#), as enacted by Laws of Utah 1973, Chapter 196
- 103 [76-6-404.5](#), as last amended by Laws of Utah 2001, Chapter 48
- 104 [76-6-404.7](#), as enacted by Laws of Utah 2009, Chapter 328
- 105 [76-6-405](#), as last amended by Laws of Utah 2012, Chapter 156
- 106 [76-6-406](#), as last amended by Laws of Utah 2022, Chapter 164
- 107 [76-6-407](#), as enacted by Laws of Utah 1973, Chapter 196
- 108 [76-6-408](#), as last amended by Laws of Utah 2022, Chapter 201
- 109 [76-6-409](#), as last amended by Laws of Utah 1994, Chapter 215

- 110 [76-6-409.1](#), as last amended by Laws of Utah 1987, Chapter 38
- 111 [76-6-409.3](#), as last amended by Laws of Utah 2010, Chapter 193
- 112 [76-6-409.5](#), as last amended by Laws of Utah 1997, Chapter 78
- 113 [76-6-409.6](#), as last amended by Laws of Utah 1997, Chapter 78
- 114 [76-6-409.7](#), as last amended by Laws of Utah 1997, Chapter 78
- 115 [76-6-409.8](#), as last amended by Laws of Utah 1997, Chapter 78
- 116 [76-6-409.9](#), as last amended by Laws of Utah 1997, Chapter 78
- 117 [76-6-409.10](#), as last amended by Laws of Utah 1996, Chapter 79
- 118 [76-6-410](#), as enacted by Laws of Utah 1973, Chapter 196
- 119 [76-6-410.5](#), as enacted by Laws of Utah 2001, Chapter 112
- 120 [76-6-413](#), as enacted by Laws of Utah 1997, Chapter 119
- 121 [76-6-501](#), as last amended by Laws of Utah 2016, Chapter 117
- 122 [76-6-502](#), as last amended by Laws of Utah 2018, Chapter 221
- 123 [76-6-503.5](#), as last amended by Laws of Utah 2014, Chapter 114
- 124 [76-6-503.7](#), as enacted by Laws of Utah 2015, Chapter 228
- 125 [76-6-504](#), as last amended by Laws of Utah 2005, Chapter 93
- 126 [76-6-505](#), as last amended by Laws of Utah 2010, Chapter 193
- 127 [76-6-506](#), as last amended by Laws of Utah 2010, Chapter 254
- 128 [76-6-506.2](#), as last amended by Laws of Utah 2009, Chapter 166
- 129 [76-6-506.3](#), as last amended by Laws of Utah 2018, Chapter 221
- 130 [76-6-506.6](#), as enacted by Laws of Utah 1991, Chapter 60
- 131 [76-6-506.7](#), as last amended by Laws of Utah 2015, Chapter 258
- 132 [76-6-507](#), as last amended by Laws of Utah 1985, Chapter 157
- 133 [76-6-508](#), as last amended by Laws of Utah 1991, Chapter 241
- 134 [76-6-509](#), as enacted by Laws of Utah 1973, Chapter 196
- 135 [76-6-510](#), as enacted by Laws of Utah 1973, Chapter 196
- 136 [76-6-511](#), as last amended by Laws of Utah 1991, Chapter 241

- 137 [76-6-512](#), as last amended by Laws of Utah 1997, Chapter 10
- 138 [76-6-513](#), as last amended by Laws of Utah 2019, Chapter 211
- 139 [76-6-514](#), as enacted by Laws of Utah 1973, Chapter 196
- 140 [76-6-515](#), as enacted by Laws of Utah 1973, Chapter 196
- 141 [76-6-516](#), as enacted by Laws of Utah 1973, Chapter 196
- 142 [76-6-517](#), as enacted by Laws of Utah 1973, Chapter 196
- 143 [76-6-518](#), as last amended by Laws of Utah 2010, Chapter 193
- 144 [76-6-520](#), as enacted by Laws of Utah 1973, Chapter 196
- 145 [76-6-521](#), as last amended by Laws of Utah 2022, Chapter 198
- 146 [76-6-522](#), as last amended by Laws of Utah 1992, Chapter 1
- 147 [76-6-523](#), as enacted by Laws of Utah 2009, Chapter 306
- 148 [76-6-524](#), as last amended by Laws of Utah 2012, Chapter 278
- 149 [76-6-601](#), as last amended by Laws of Utah 1998, Chapter 282
- 150 [76-6-602](#), as enacted by Laws of Utah 1979, Chapter 78
- 151 [76-6-608](#), as last amended by Laws of Utah 2010, Chapter 193
- 152 [76-6-703](#), as last amended by Laws of Utah 2017, Chapters 462, 467
- 153 [76-6-705](#), as last amended by Laws of Utah 2017, Chapter 462
- 154 [76-6-801](#), as last amended by Laws of Utah 1987, Chapter 245
- 155 [76-6-803](#), as last amended by Laws of Utah 1987, Chapter 245
- 156 [76-6-803.30](#), as enacted by Laws of Utah 1987, Chapter 245
- 157 [76-6-803.60](#), as enacted by Laws of Utah 1987, Chapter 245
- 158 [76-6-803.90](#), as enacted by Laws of Utah 1987, Chapter 245
- 159 [76-6-902](#), as last amended by Laws of Utah 2006, Chapter 111
- 160 [76-6-1001](#), as last amended by Laws of Utah 2021, Chapter 329
- 161 [76-6-1002](#), as last amended by Laws of Utah 2002, Chapter 166
- 162 [76-6-1003](#), as last amended by Laws of Utah 2020, Chapter 223
- 163 [76-6-1102](#), as last amended by Laws of Utah 2021, Chapter 260

- 164 **76-6-1105**, as last amended by Laws of Utah 2021, Chapter 260
- 165 **76-6-1203**, as enacted by Laws of Utah 2008, Chapter 370
- 166 **76-6-1303**, as last amended by Laws of Utah 2015, Chapter 258
- 167 **76-6-1403**, as last amended by Laws of Utah 2014, Chapter 261
- 168 **76-6-1404**, as renumbered and amended by Laws of Utah 2013, Chapter 187
- 169 **76-6-1405**, as renumbered and amended by Laws of Utah 2013, Chapter 187
- 170 **76-6-1406**, as last amended by Laws of Utah 2022, Chapter 201
- 171 **76-6-1408**, as last amended by Laws of Utah 2016, Chapter 316
- 172 **76-6-1409**, as renumbered and amended by Laws of Utah 2013, Chapter 187
- 173 **76-9-201**, as last amended by Laws of Utah 2021, Chapter 152
- 174 **76-10-204**, as last amended by Laws of Utah 2002, Chapter 166
- 175 **76-10-1302**, as last amended by Laws of Utah 2022, Chapters 124, 181 and 185
- 176 **76-10-1602**, as last amended by Laws of Utah 2022, Chapters 181, 185
- 177 **77-18-105**, as last amended by Laws of Utah 2022, Chapters 115, 359
- 178 **77-23a-8**, as last amended by Laws of Utah 2022, Chapter 430
- 179 **77-36-1.1**, as last amended by Laws of Utah 2021, Chapter 213
- 180 **77-42-105**, as last amended by Laws of Utah 2016, Chapter 319
- 181 **78B-3-108**, as last amended by Laws of Utah 2022, Chapter 201
- 182 **78B-9-104**, as last amended by Laws of Utah 2022, Chapter 120
- 183 **80-6-610**, as renumbered and amended by Laws of Utah 2021, Chapter 261
- 184 **80-6-709**, as last amended by Laws of Utah 2022, Chapter 155

185 ENACTS:

- 186 **76-6-106.1**, Utah Code Annotated 1953
- 187 **76-6-206.5**, Utah Code Annotated 1953
- 188 **76-6-412.1**, Utah Code Annotated 1953
- 189 **76-6-501.5**, Utah Code Annotated 1953
- 190 **76-6-503.6**, Utah Code Annotated 1953

- 191 **76-6-506.8**, Utah Code Annotated 1953
- 192 **76-6-506.9**, Utah Code Annotated 1953
- 193 **76-6-703.1**, Utah Code Annotated 1953
- 194 **76-6-703.3**, Utah Code Annotated 1953
- 195 **76-6-703.5**, Utah Code Annotated 1953
- 196 **76-6-703.7**, Utah Code Annotated 1953
- 197 **76-6-902.1**, Utah Code Annotated 1953
- 198 **76-6-902.2**, Utah Code Annotated 1953
- 199 **76-6-1403.1**, Utah Code Annotated 1953
- 200 **76-6-1404.1**, Utah Code Annotated 1953
- 201 **76-6-1405.1**, Utah Code Annotated 1953
- 202 **76-6-1406.1**, Utah Code Annotated 1953
- 203 **76-6-1409.1**, Utah Code Annotated 1953
- 204 **76-6a-102**, Utah Code Annotated 1953
- 205 **76-6a-103**, Utah Code Annotated 1953
- 206 REPEALS AND REENACTS:
- 207 **76-6-1101**, as enacted by Laws of Utah 2000, Chapter 57
- 208 RENUMBERS AND AMENDS:
- 209 **76-3-203.15**, (Renumbered from 76-6-109, as last amended by Laws of Utah 2000,
- 210 Chapter 214)
- 211 **76-3-203.16**, (Renumbered from 76-6-110, as last amended by Laws of Utah 2021,
- 212 Chapter 57)
- 213 **76-3-410**, (Renumbered from 76-6-107.1, as last amended by Laws of Utah 2021,
- 214 Chapter 260)
- 215 **76-6a-101**, (Renumbered from 76-6a-2, as last amended by Laws of Utah 2006,
- 216 Chapter 247)
- 217 **76-6a-104**, (Renumbered from 76-6a-6, as enacted by Laws of Utah 1983, Chapter 89)

218 REPEALS:

- 219 **76-6-412**, as last amended by Laws of Utah 2022, Chapter 201
- 220 **76-6-506.5**, as last amended by Laws of Utah 2010, Chapter 193
- 221 **76-6-606**, as last amended by Laws of Utah 2000, Chapter 236
- 222 **76-6-701**, as last amended by Laws of Utah 1986, Chapter 123
- 223 **76-6-802**, as last amended by Laws of Utah 1987, Chapter 245
- 224 **76-6-804**, as enacted by Laws of Utah 1981, Chapter 168
- 225 **76-6-805**, as enacted by Laws of Utah 1981, Chapter 168
- 226 **76-6-903**, as last amended by Laws of Utah 2013, Chapter 394
- 227 **76-6-1004**, as enacted by Laws of Utah 1998, Chapter 87
- 228 **76-6-1201**, as enacted by Laws of Utah 2008, Chapter 370
- 229 **76-6-1204**, as last amended by Laws of Utah 2010, Chapter 193
- 230 **76-6-1301**, as enacted by Laws of Utah 2012, Chapter 32
- 231 **76-6-1401**, as renumbered and amended by Laws of Utah 2013, Chapter 187
- 232 **76-6-1407**, as last amended by Laws of Utah 2016, Chapter 316
- 233 **76-6a-1**, as enacted by Laws of Utah 1983, Chapter 89
- 234 **76-6a-3**, as last amended by Laws of Utah 2006, Chapter 247
- 235 **76-6a-4**, as last amended by Laws of Utah 2006, Chapter 247
- 236 **76-6a-5**, as enacted by Laws of Utah 1983, Chapter 89



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

239 Section 1. Section **13-19-3** is amended to read:

240 **13-19-3. Violation an infraction.**

241 Notwithstanding the penalty provisions of [~~Section 76-6-606~~] Title 76, Chapter 6, Part
242 6, Retail Theft, a violation of this chapter is an infraction.

243 Section 2. Section **24-1-102** is amended to read:

244 **24-1-102. Definitions.**

245 As used in this title:

246 (1) "Account" means the Criminal Forfeiture Restricted Account created in Section
247 [24-4-116](#).

248 (2) (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not
249 guilty.

250 (b) "Acquitted" does not include:

251 (i) a verdict of guilty on a lesser or reduced charge;

252 (ii) a plea of guilty to a lesser or reduced charge; or

253 (iii) dismissal of a charge as a result of a negotiated plea agreement.

254 (3) (a) "Agency" means an agency of this state or a political subdivision of this state.

255 (b) "Agency" includes a law enforcement agency or a multijurisdictional task force.

256 (4) "Claimant" means:

257 (a) an owner of property as defined in this section;

258 (b) an interest holder as defined in this section; or

259 (c) an individual or entity who asserts a claim to any property seized for forfeiture
260 under this title.

261 (5) "Commission" means the State Commission on Criminal and Juvenile Justice
262 created in Section [63M-7-201](#).

263 (6) "Complaint" means a civil or criminal complaint seeking the forfeiture of any real
264 or personal property under this title.

265 (7) (a) "Computer" means an electronic, magnetic, optical, electrochemical, or other
266 high-speed data processing device that performs logical, arithmetic, and storage functions.

267 (b) "Computer" includes any device that is used for the storage of digital or electronic
268 files, flash memory, software, or other electronic information.

269 (c) "Computer" does not mean a computer server of an Internet or electronic service
270 provider, or the service provider's employee, if used to comply with the requirements under 18
271 U.S.C. Sec. 2258A.

272 (8) "Constructive seizure" means a seizure of property where the property is left in the
273 control of the owner and an agency posts the property with a notice of intent to seek forfeiture.

274 (9) (a) "Contraband" means any property, item, or substance that is unlawful to
275 produce or to possess under state or federal law.

276 (b) "Contraband" includes:

277 (i) a controlled substance that is possessed, transferred, distributed, or offered for
278 distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

279 (ii) a computer that:

280 (A) contains or houses child pornography, or is used to create, download, transfer,
281 upload to a storage account, or store any electronic or digital files containing child
282 pornography; or

283 (B) contains the personal identifying information of another individual, as defined in
284 [~~Subsection 76-6-1102(1)~~] Section 76-6-1101, whether that individual is alive or deceased, and
285 the personal identifying information has been used to create false or fraudulent identification
286 documents or financial transaction cards in violation of Title 76, Chapter 6, Part 5, Fraud.

287 (10) "Forfeit" means to divest a claimant of an ownership interest in property seized
288 under this title.

289 (11) "Innocent owner" means a claimant who:

290 (a) held an ownership interest in property at the time of the commission of an offense
291 subjecting the property to forfeiture under this title, and:

292 (i) did not have actual knowledge of the offense subjecting the property to forfeiture; or

293 (ii) upon learning of the commission of the offense, took reasonable steps to prohibit
294 the use of the property in the commission of the offense; or

295 (b) acquired an ownership interest in the property and had no knowledge that the
296 commission of the offense subjecting the property to forfeiture under this title had occurred or
297 that the property had been seized for forfeiture, and:

298 (i) acquired the property in a bona fide transaction for value;

299 (ii) was an individual, including a minor child, who acquired an interest in the property
300 through probate or inheritance; or

301 (iii) was a spouse who acquired an interest in property through dissolution of marriage
302 or by operation of law.

303 (12) (a) "Interest holder" means a secured party as defined in Section 70A-9a-102, a
304 party with a right-of-offset, a mortgagee, lien creditor, or the beneficiary of a security interest
305 or encumbrance pertaining to an interest in property, whose interest would be perfected against
306 a good faith purchaser for value.

307 (b) "Interest holder" does not mean a person:

308 (i) who holds property for the benefit of or as an agent or nominee for another person;

309 or

310 (ii) who is not in substantial compliance with any statute requiring an interest in
311 property to be:

312 (A) recorded or reflected in public records in order to perfect the interest against a good
313 faith purchaser for value; or

314 (B) held in control by a secured party, as defined in Section 70A-9a-102, in accordance
315 with Section 70A-9a-314 in order to perfect the interest against a good faith purchaser for
316 value.

317 (13) "Known address" means any address provided by a claimant to the peace officer
318 or agency at the time the property is seized, or the claimant's most recent address on record
319 with a governmental entity if no address was provided at the time of the seizure.

320 (14) "Legal costs" means the costs and expenses incurred by a party in a forfeiture
321 action.

322 (15) "Legislative body" means:

323 (a) (i) the Legislature, county commission, county council, city commission, city
324 council, or town council that has fiscal oversight and budgetary approval authority over an
325 agency; or

326 (ii) the agency's governing political subdivision; or
327 (b) the lead governmental entity of a multijurisdictional task force, as designated in a
328 memorandum of understanding executed by the agencies participating in the task force.

329 (16) "Multijurisdictional task force" means a law enforcement task force or other
330 agency comprised of individuals who are employed by or acting under the authority of different
331 governmental entities, including federal, state, county, or municipal governments, or any
332 combination of federal, state, county, or municipal agencies.

333 (17) "Owner" means an individual or entity, other than an interest holder, that
334 possesses a bona fide legal or equitable interest in real or personal property.

335 (18) "Peace officer" means an employee:

336 (a) of an agency;

337 (b) whose duties consist primarily of the prevention and detection of violations of laws
338 of this state or a political subdivision of this state; and

339 (c) who is authorized by the agency to seize property under this title.

340 (19) (a) "Proceeds" means:

341 (i) property of any kind that is obtained directly or indirectly as a result of the
342 commission of an offense; or

343 (ii) any property acquired directly or indirectly from, produced through, realized
344 through, or caused by an act or omission regarding property under Subsection (19)(a)(i).

345 (b) "Proceeds" includes any property of any kind without reduction for expenses
346 incurred in the acquisition, maintenance, or production of that property, or any other purpose
347 regarding property under Subsection (19)(a)(i).

348 (c) "Proceeds" is not limited to the net gain or profit realized from the offense that
349 subjects the property to forfeiture.

350 (20) "Program" means the State Asset Forfeiture Grant Program created in Section
351 [24-4-117](#).

352 (21) (a) "Property" means all property, whether real or personal, tangible or intangible.

- 353 (b) "Property" does not include contraband.
- 354 (22) "Prosecuting attorney" means:
- 355 (a) the attorney general and an assistant attorney general;
- 356 (b) a district attorney or deputy district attorney;
- 357 (c) a county attorney or assistant county attorney; and
- 358 (d) an attorney authorized to commence an action on behalf of the state under this title.

- 359 (23) "Public interest use" means a:
- 360 (a) use by a government agency as determined by the legislative body of the agency's
- 361 jurisdiction; or

- 362 (b) donation of the property to a nonprofit charity registered with the state.

- 363 (24) "Real property" means land, including any building, fixture, improvement,
- 364 appurtenance, structure, or other development that is affixed permanently to land.

365 Section 3. Section **26-7-14** is amended to read:

366 **26-7-14. Study on violent incidents and fatalities involving substance abuse --**
367 **Report.**

- 368 (1) As used in this section:

- 369 (a) "Drug overdose event" means an acute condition, including a decreased level of
- 370 consciousness or respiratory depression resulting from the consumption or use of a controlled
- 371 substance, or another substance with which a controlled substance or alcohol was combined,
- 372 that results in an individual requiring medical assistance.

- 373 (b) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or
- 374 substances.

- 375 (c) "Violent incident" means:

- 376 (i) aggravated assault as described in Section [76-5-103](#);
- 377 (ii) child abuse as described in Sections [76-5-109](#), [76-5-109.2](#), [76-5-109.3](#), and
- 378 [76-5-114](#);
- 379 (iii) an offense described in Title 76, Chapter 5, Part 2, Criminal Homicide;

- 380 (iv) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
 - 381 (v) a burglary offense described in Sections [76-6-202](#) [~~through~~], [76-6-203](#), [76-6-204](#),
 - 382 [and 76-6-204.5](#);
 - 383 (vi) an offense described in Title 76, Chapter 6, Part 3, Robbery;
 - 384 (vii) a domestic violence offense, as defined in Section [77-36-1](#); and
 - 385 (viii) any other violent offense, as determined by the department.
- 386 (2) In 2021 and continuing every other year, the department shall provide a report
- 387 before October 1 to the Health and Human Services Interim Committee regarding the number
- 388 of:
- 389 (a) violent incidents and fatalities that occurred in the state during the preceding
 - 390 calendar year that, at the time of occurrence, involved substance abuse;
 - 391 (b) drug overdose events in the state during the preceding calendar year; and
 - 392 (c) recommendations for legislation, if any, to prevent the occurrence of the events
 - 393 described in Subsections (2)(a) and (b).
- 394 (3) Before October 1, 2020, the department shall:
- 395 (a) determine what information is necessary to complete the report described in
 - 396 Subsection (2) and from which local, state, and federal agencies the information may be
 - 397 obtained;
 - 398 (b) determine the cost of any research or data collection that is necessary to complete
 - 399 the report described in Subsection (2);
 - 400 (c) make recommendations for legislation, if any, that is necessary to facilitate the
 - 401 research or data collection described in Subsection (3)(b), including recommendations for
 - 402 legislation to assist with information sharing between local, state, federal, and private entities
 - 403 and the department; and
 - 404 (d) report the findings described in Subsections (3)(a) through (c) to the Health and
 - 405 Human Services Interim Committee.
- 406 (4) The department may contract with another state agency, private entity, or research

407 institution to assist the department with the report described in Subsection (2).

408 Section 4. Section **26-20-9** is amended to read:

409 **26-20-9. Criminal penalties.**

410 (1) (a) Except as provided in Subsection (1)(b) the culpable mental state required for a
411 criminal violation of this chapter is knowingly, intentionally, or recklessly as defined in Section
412 **76-2-103**.

413 (b) The culpable mental state required for a criminal violation of this chapter for
414 kickbacks and bribes under Section **26-20-4** is knowingly and intentionally as defined in
415 Section **76-2-103**.

416 (2) The punishment for a criminal violation of any provision of this chapter, except as
417 provided under Section **26-20-5**, is determined by the cumulative value of the funds or other
418 benefits received or claimed in the commission of all violations of a similar nature, and not by
419 each separate violation.

420 (3) Punishment for criminal violation of this chapter, except as provided under Section
421 **26-20-5**, is [~~a felony of the second degree, felony of the third degree, class A misdemeanor, or~~
422 ~~class B misdemeanor based on the dollar amounts as prescribed by Subsection **76-6-412**(1) for~~
423 ~~theft of property and services]~~:

424 (a) a second degree felony if the value of the property or service is or exceeds \$5,000;

425 (b) a third degree felony if the value of the property or service is or exceeds \$1,500 but
426 is less than \$5,000;

427 (c) a class A misdemeanor if the value of the property or service is or exceeds \$500 but
428 is less than \$1,500; or

429 (d) a class B misdemeanor if the value of the property or service is less than \$500.

430 Section 5. Section **31A-23a-409** is amended to read:

431 **31A-23a-409. Trust obligation for money collected.**

432 (1) (a) Subject to Subsection (7), a licensee is a trustee for money that is paid to,
433 received by, or collected by a licensee for forwarding to insurers or to insureds.

434 (b) (i) Except as provided in Subsection (1)(b)(ii), a licensee may not commingle trust
435 funds with:

436 (A) the licensee's own money; or

437 (B) money held in any other capacity.

438 (ii) This Subsection (1)(b) does not apply to:

439 (A) amounts necessary to pay bank charges; and

440 (B) money paid by insureds and belonging in part to the licensee as a fee or
441 commission.

442 (c) Except as provided under Subsection (4), a licensee owes to insureds and insurers
443 the fiduciary duties of a trustee with respect to money to be forwarded to insurers or insureds
444 through the licensee.

445 (d) (i) Unless money is sent to the appropriate payee by the close of the next business
446 day after their receipt, the licensee shall deposit them in an account authorized under
447 Subsection (2).

448 (ii) Money deposited under this Subsection (1)(d) shall remain in an account
449 authorized under Subsection (2) until sent to the appropriate payee.

450 (2) Money required to be deposited under Subsection (1) shall be deposited:

451 (a) ~~in~~ into a federally insured trust account in a depository institution, as defined in
452 Section 7-1-103, which:

453 (i) has an office in this state, if the licensee depositing the money is a resident licensee;

454 (ii) has federal deposit insurance; and

455 (iii) is authorized by its primary regulator to engage in the trust business, as defined by
456 Section 7-5-1, in this state; or

457 (b) ~~in~~ into some other account, that:

458 (i) the commissioner approves by rule or order; and

459 (ii) provides safety comparable to an account described in Subsection (2)(a).

460 (3) It is not a violation of Subsection (2)(a) if the amounts in the accounts exceed the

461 amount of the federal insurance on the accounts.

462 (4) A trust account into which money is deposited may be interest bearing. The
463 interest accrued on the account may be paid to the licensee, so long as the licensee otherwise
464 complies with this section and with the contract with the insurer.

465 (5) A depository institution or other organization holding trust funds under this section
466 may not offset or impound trust account funds against debts and obligations incurred by the
467 licensee.

468 (6) A licensee who, not being lawfully entitled to do so, diverts or appropriates any
469 portion of the money held under Subsection (1) to the licensee's own use, is guilty of theft
470 under Title 76, Chapter 6, Part 4, Theft. [~~Section 76-6-412 applies in determining the~~
471 ~~classification of the offense.~~] Sanctions under Section 31A-2-308 also apply.

472 (7) A nonresident licensee:

473 (a) shall comply with Subsection (1)(a) by complying with the trust account
474 requirements of the nonresident licensee's home state; and

475 (b) is not required to comply with the other provisions of this section.

476 Section 6. Section 31A-36-118 is amended to read:

477 **31A-36-118. Criminal penalties and restitution.**

478 (1) A person subject to this chapter is subject to:

479 (a) Section 31A-2-308 for an administrative violation of this title;

480 (b) prosecution under [~~Section 76-6-412~~] Title 76, Chapter 6, Part 4, Theft, for [a]
481 criminal activity involving a life settlement; or

482 (c) prosecution under Section 31A-31-103 for insurance fraud involving a life
483 settlement.

484 (2) A person found to be in violation of this chapter may:

485 (a) be ordered to pay restitution to persons aggrieved by the violation;

486 (b) be ordered to pay a forfeiture;

487 (c) be imprisoned if found guilty of a criminal law by a court of competent jurisdiction;

488 and

489 (d) be subject to a combination of the penalties described in this Subsection (2).

490 (3) Except for a fraudulent act committed by an owner, this section does not apply to
491 the owner.

492 Section 7. Section **35A-4-312.5** is amended to read:

493 **35A-4-312.5. Suspected misuse of personal identifying information.**

494 (1) As used in this section:

495 (a) "Child identity protection plan" is a program operated by the attorney general that
496 uses IRIS and allows the attorney general to enter into an agreement with a third party to
497 transmit verified personal information of a person younger than 18 years of age through
498 secured means to enable the protection of the person's Social Security number from misuse.

499 (b) "IRIS" means the Identity Theft Reporting Information System operated by the
500 attorney general.

501 (c) "Personal identifying information" has the same meaning as defined in Section
502 ~~[76-6-1102]~~ [76-6-1101](#).

503 (d) "Suspected misuse of personal identifying information" includes:

504 (i) a ~~[Social Security]~~ social security number under which wages are being reported by
505 two or more individuals; or

506 (ii) a ~~[Social Security]~~ social security number of an individual under the age of 18 with
507 reported wages exceeding \$1,000 for a single reporting quarter.

508 (2) Notwithstanding Section [35A-4-312](#), if the department records disclose a suspected
509 misuse of personal identifying information by an individual other than the purported owner of
510 the information, or if a parent, guardian, or individual under the age of 18 is enrolling or has
511 enrolled in the child identity protection plan, the department may:

512 (a) inform the purported owner of the information or, if the purported owner is a minor,
513 the minor's parent or guardian, of the suspected misuse; and

514 (b) provide information of the suspected misuse to an appropriate law enforcement

515 agency responsible for investigating an identity fraud violation.

516 Section 8. Section **41-1a-1314** is amended to read:

517 **41-1a-1314. Unauthorized control for extended time.**

518 (1) Except as provided in Subsection (3), it is a class A misdemeanor for a person to
519 exercise unauthorized control over a motor vehicle that is not his own, without the consent of
520 the owner or lawful custodian, and with the intent to temporarily deprive the owner or lawful
521 custodian of possession of the motor vehicle.

522 (2) The consent of the owner or legal custodian of a motor vehicle to its control by the
523 actor is not in any case presumed or implied because of the owner's or legal custodian's consent
524 on a previous occasion to the control of the motor vehicle by the same or a different person.

525 (3) Violation of this section is a third degree felony if:

526 (a) the person does not return the motor vehicle to the owner or lawful custodian within
527 24 hours after the exercise of unlawful control; or

528 (b) regardless of the mental state or conduct of the person committing the offense:

529 (i) the motor vehicle is damaged in an amount of \$500 or more;

530 (ii) the motor vehicle is used to commit a felony; or

531 (iii) the motor vehicle is damaged in any amount to facilitate entry into it or its
532 operation.

533 (4) It is not a defense to Subsection (3)(a) that someone other than the person, or an
534 agent of the person, returned the motor vehicle within 24 hours.

535 (5) A violation of this section is a lesser included offense of theft under Section
536 [76-6-404](#), when the theft is of an operable motor vehicle under Subsection [~~76-6-412(1)(a)(ii)~~]
537 [76-6-404\(3\)\(a\)\(ii\)](#).

538 Section 9. Section **58-9-607** is amended to read:

539 **58-9-607. Authorization to cremate -- Penalties for removal of items from human**
540 **remains.**

541 (1) Except as otherwise provided in this section and Section [58-9-619](#), a funeral service

542 establishment may not cremate human remains until it has received:

543 (a) a cremation authorization form signed by an authorizing agent;

544 (b) a completed and executed burial transit permit or similar document, as provided by
545 state law, indicating that human remains are to be cremated; and

546 (c) any other documentation required by the state, county, or municipality.

547 (2) (a) The cremation authorization form shall contain, at a minimum, the following
548 information:

549 (i) the identity of the human remains and the time and date of death, including a signed
550 declaration of visual identification of the deceased or refusal to visually identify the deceased;

551 (ii) the name of the funeral director and funeral service establishment that obtained the
552 cremation authorization;

553 (iii) notification as to whether the death occurred from a disease declared by the
554 department of health to be infectious, contagious, communicable, or dangerous to the public
555 health;

556 (iv) the name of the authorizing agent and the relationship between the authorizing
557 agent and the decedent;

558 (v) a representation that the authorizing agent has the right to authorize the cremation
559 of the decedent and that the authorizing agent is not aware of any living person with a superior
560 or equal priority right to that of the authorizing agent, except that if there is another living
561 person with a superior or equal priority right, the form shall contain a representation that the
562 authorizing agent has:

563 (A) made reasonable efforts to contact that person;

564 (B) been unable to do so; and

565 (C) no reason to believe that the person would object to the cremation of the decedent;

566 (vi) authorization for the funeral service establishment to cremate the human remains;

567 (vii) a representation that the human remains do not contain a pacemaker or other
568 material or implant that may be potentially hazardous or cause damage to the cremation

569 chamber or the person performing the cremation;
570 (viii) the name of the person authorized to receive the cremated remains from the
571 funeral service establishment;
572 (ix) the manner in which the final disposition of the cremated remains is to take place,
573 if known;
574 (x) a listing of each item of value to be delivered to the funeral service establishment
575 along with the human remains, and instructions as to how each item should be handled;
576 (xi) the signature of the authorizing agent, attesting to the accuracy of all
577 representations contained on the authorization form;
578 (xii) if the cremation authorization form is being executed on a preneed basis, the form
579 shall contain the disclosure required for preneed programs under this chapter; and
580 (xiii) except for a preneed cremation authorization, the signature of the funeral director
581 of the funeral service establishment that obtained the cremation authorization.
582 (b) (i) The individual described in Subsection (2)(a)(xiii) shall execute the funeral
583 authorization form as a witness and is not responsible for any of the representations made by
584 the authorizing agent.
585 (ii) The funeral director or the funeral service establishment shall warrant to the
586 crematory that the human remains delivered to the funeral service establishment have been
587 positively identified as the decedent listed on the cremation authorization form by the
588 authorizing agent or a designated representative of the authorizing agent.
589 (iii) The authorizing agent or the agent's designee may make the identification referred
590 to in Subsection (2)(b)(ii) in person or by photograph.
591 (3) (a) Except as provided in Section 58-9-619, a funeral service establishment may not
592 accept unidentified human remains for cremation.
593 (b) If a funeral service establishment takes custody of a cremation container subsequent
594 to the human remains being placed within the container, it can rely on the identification made
595 before the remains were placed in the container.

596 (c) The funeral service establishment shall place appropriate identification on the
597 exterior of the cremation container based on the prior identification.

598 (4) (a) A person who removes or possesses dental gold or silver, jewelry, or mementos
599 from human remains:

600 (i) with purpose to deprive another over control of the property is guilty of an offense
601 and subject to the punishments provided in Section [~~76-6-412~~] 76-6-404;

602 (ii) with purpose to exercise unauthorized control and with intent to temporarily
603 deprive another of control over the property is guilty of an offense and subject to the
604 punishments provided in Section 76-6-404.5; and

605 (iii) under circumstances not amounting to Subsection (4)(a)(i) or (ii) and without
606 specific written permission of the individual who has the right to control those remains is guilty
607 of a class B misdemeanor.

608 (b) The fact that residue or any unavoidable dental gold or dental silver or other
609 precious metals remain in a cremation chamber or other equipment or a container used in a
610 prior cremation is not a violation of Subsection (4)(a).

611 Section 10. Section **58-9-613** is amended to read:

612 **58-9-613. Authorization for alkaline hydrolysis -- Penalties for removal of items**
613 **from human remains.**

614 (1) Except as otherwise provided in this section, a funeral service establishment may
615 not perform alkaline hydrolysis on human remains until the funeral service establishment has
616 received:

617 (a) an alkaline hydrolysis authorization form signed by an authorizing agent;

618 (b) a completed and executed burial transit permit or similar document, as provided by
619 state law, indicating that disposition of the human remains is to be by alkaline hydrolysis; and

620 (c) any other documentation required by the state, county, or municipality.

621 (2) (a) The alkaline hydrolysis authorization form shall contain, at a minimum, the
622 following information:

- 623 (i) the identity of the human remains and the time and date of death, including a signed
624 declaration of visual identification of the deceased or refusal to visually identify the deceased;
- 625 (ii) the name of the funeral director and funeral service establishment that obtained the
626 alkaline hydrolysis authorization;
- 627 (iii) notification as to whether the death occurred from a disease declared by the
628 Department of Health to be infectious, contagious, communicable, or dangerous to the public
629 health;
- 630 (iv) the name of the authorizing agent and the relationship between the authorizing
631 agent and the decedent;
- 632 (v) a representation that the authorizing agent has the right to authorize the disposition
633 of the decedent by alkaline hydrolysis and that the authorizing agent is not aware of any living
634 person with a superior or equal priority right to that of the authorizing agent, except that if
635 there is another living person with a superior or equal priority right, the alkaline hydrolysis
636 authorization form shall contain a representation that the authorizing agent has:
- 637 (A) made reasonable efforts to contact that person;
- 638 (B) been unable to do so; and
- 639 (C) no reason to believe that the person would object to the disposition of the decedent
640 by alkaline hydrolysis;
- 641 (vi) authorization for the funeral service establishment to use alkaline hydrolysis for
642 the disposition of the human remains;
- 643 (vii) the name of the person authorized to receive the human remains from the funeral
644 service establishment;
- 645 (viii) the manner in which the final disposition of the human remains is to take place, if
646 known;
- 647 (ix) a listing of each item of value to be delivered to the funeral service establishment
648 along with the human remains, and instructions as to how each item should be handled;
- 649 (x) the signature of the authorizing agent, attesting to the accuracy of all

650 representations contained on the alkaline hydrolysis authorization form;

651 (xi) if the alkaline hydrolysis authorization form is being executed on a preneed basis,
652 the disclosure required for preneed programs under this chapter; and

653 (xii) except for a preneed alkaline hydrolysis authorization, the signature of the funeral
654 director of the funeral service establishment that obtained the alkaline hydrolysis authorization.

655 (b) (i) The person referred to in Subsection (2)(a)(xii) shall execute the alkaline
656 hydrolysis authorization form as a witness and is not responsible for any of the representations
657 made by the authorizing agent.

658 (ii) The funeral director or the funeral service establishment shall warrant that the
659 human remains delivered to the funeral service establishment have been positively identified by
660 the authorizing agent or a designated representative of the authorizing agent as the decedent
661 listed on the alkaline hydrolysis authorization form.

662 (iii) The authorizing agent or the agent's designee may make the identification referred
663 to in Subsection (2)(b)(ii) in person or by photograph.

664 (3) (a) A funeral service establishment may not accept unidentified human remains for
665 alkaline hydrolysis.

666 (b) If a funeral service establishment takes custody of an alkaline hydrolysis container
667 subsequent to the human remains being placed within the container, the funeral service
668 establishment can rely on the identification made before the remains were placed in the
669 container.

670 (c) The funeral service establishment shall place appropriate identification on the
671 exterior of the alkaline hydrolysis container based on the prior identification.

672 (4) (a) A person who removes or possesses dental gold or silver, jewelry, or mementos
673 from human remains:

674 (i) with purpose to deprive another over control of the property is guilty of an offense
675 and subject to the punishments provided in Section [~~76-6-412~~] [76-6-404](#);

676 (ii) with purpose to exercise unauthorized control and with intent to temporarily

677 deprive another of control over the property is guilty of an offense and subject to the
678 punishments provided in Section 76-6-404.5; and

679 (iii) under circumstances not amounting to Subsection (4)(a)(i) or (ii) and without
680 specific written permission of the individual who has the right to control those remains is guilty
681 of a class B misdemeanor.

682 (b) The fact that residue or any unavoidable dental gold or dental silver or other
683 precious metals remain in alkaline hydrolysis equipment or a container used in a prior alkaline
684 hydrolysis process is not a violation of Subsection (4)(a).

685 Section 11. Section 58-55-503 is amended to read:

686 **58-55-503. Penalty for unlawful conduct -- Citations.**

687 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),
688 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (16)(e), (21), (22), (23), (24), (25), (26),
689 (27), or (28), or Subsection 58-55-504(2), or who fails to comply with a citation issued under
690 this section after it is final, is guilty of a class A misdemeanor.

691 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an
692 individual and does not include a sole proprietorship, joint venture, corporation, limited
693 liability company, association, or organization of any type.

694 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be
695 awarded and may not accept a contract for the performance of the work.

696 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an
697 infraction unless the violator did so with the intent to deprive the person to whom money is to
698 be paid of the money received, in which case the violator is guilty of theft~~[, as classified in~~
699 ~~Section 76-6-412]~~ under Section 76-6-404.

700 (3) Grounds for immediate suspension of a licensee's license by the division and the
701 commission include:

702 (a) the issuance of a citation for violation of Subsection 58-55-308(2), Section
703 58-55-501, or Subsection 58-55-504(2); and

704 (b) the failure by a licensee to make application to, report to, or notify the division with
705 respect to any matter for which application, notification, or reporting is required under this
706 chapter or rules adopted under this chapter, including:

707 (i) applying to the division for a new license to engage in a new specialty classification
708 or to do business under a new form of organization or business structure;

709 (ii) filing a current financial statement with the division; and

710 (iii) notifying the division concerning loss of insurance coverage or change in qualifier.

711 (4) (a) (i) If upon inspection or investigation, the division concludes that a person has
712 violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
713 (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24), (25), (26), (27), (28), Subsection
714 58-55-502(4)(a) or (11), Subsection 58-55-504(2), or any rule or order issued with respect to
715 these subsections, and that disciplinary action is appropriate, the director or the director's
716 designee from within the division shall promptly issue a citation to the person according to this
717 chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person
718 to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4,
719 Administrative Procedures Act.

720 (ii) A person who is in violation of the provisions of Subsection 58-55-308(2),
721 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24),
722 (25), (26), (27), or (28), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a
723 stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be
724 assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered
725 to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3),
726 (9), (10), (12), (16)(e), (18), (20), (21), (24), (25), (26), (27), or (28), or Subsection
727 58-55-504(2).

728 (iii) Except for a cease and desist order, the licensure sanctions cited in Section
729 58-55-401 may not be assessed through a citation.

730 (b) (i) A citation shall be in writing and describe with particularity the nature of the

731 violation, including a reference to the provision of the chapter, rule, or order alleged to have
732 been violated.

733 (ii) A citation shall clearly state that the recipient must notify the division in writing
734 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
735 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

736 (iii) A citation shall clearly explain the consequences of failure to timely contest the
737 citation or to make payment of any fines assessed by the citation within the time specified in
738 the citation.

739 (c) A citation issued under this section, or a copy of a citation, may be served upon a
740 person upon whom a summons may be served:

741 (i) in accordance with the Utah Rules of Civil Procedure;

742 (ii) personally or upon the person's agent by a division investigator or by a person
743 specially designated by the director; or

744 (iii) by mail.

745 (d) (i) If within 20 calendar days after the day on which a citation is served, the person
746 to whom the citation was issued fails to request a hearing to contest the citation, the citation
747 becomes the final order of the division and is not subject to further agency review.

748 (ii) The period to contest a citation may be extended by the division for cause.

749 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
750 the license of a licensee who fails to comply with a citation after the citation becomes final.

751 (f) The failure of an applicant for licensure to comply with a citation after the citation
752 becomes final is a ground for denial of license.

753 (g) A citation may not be issued under this section after the expiration of one year
754 following the date on which the violation that is the subject of the citation is reported to the
755 division.

756 (h) (i) Except as provided in Subsections (4)(h)(ii) and (5), the director or the director's
757 designee shall assess a fine in accordance with the following:

758 (A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;
759 (B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;
760 and
761 (C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
762 \$2,000 for each day of continued offense.

763 (ii) Except as provided in Subsection (5), if a person violates Subsection
764 58-55-501(16)(e) or (28), the director or the director's designee shall assess a fine in
765 accordance with the following:

766 (A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;
767 (B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$4,000;
768 and
769 (C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
770 \$4,000 for each day of continued offense.

771 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
772 Subsection (4)(h), an offense constitutes a second or subsequent offense if:

773 (A) the division previously issued a final order determining that a person committed a
774 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),
775 (3), (9), (10), (12), (14), (16)(e), (18), (23), (24), (25), (26), (27), or (28), or Subsection
776 58-55-504(2); or

777 (B) (I) the division initiated an action for a first or second offense;
778 (II) a final order has not been issued by the division in the action initiated under
779 Subsection (4)(i)(i)(B)(I);

780 (III) the division determines during an investigation that occurred after the initiation of
781 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
782 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
783 (10), (12), (14), (16)(e), (18), (19), (23), (24), (25), (26), (27), (28), or Subsection
784 58-55-504(2); and

785 (IV) after determining that the person committed a second or subsequent offense under
786 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
787 Subsection (4)(i)(i)(B)(I).

788 (ii) In issuing a final order for a second or subsequent offense under Subsection
789 (4)(i)(i), the division shall comply with the requirements of this section.

790 (j) In addition to any other licensure sanction or fine imposed under this section, the
791 division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24)
792 two or more times within a 12-month period, unless, with respect to a violation of Subsection
793 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal
794 legal working status of the individual who was the subject of the violation using a status
795 verification system, as defined in Section 13-47-102.

796 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)
797 for each individual is considered a separate violation.

798 (5) If a person violates Section 58-55-501, the division may not treat the violation as a
799 subsequent violation of a previous violation if the violation occurs five years or more after the
800 day on which the person committed the previous violation.

801 (6) If, after an investigation, the division determines that a person has committed
802 multiple of the same type of violation of Section 58-55-501, the division may treat each
803 violation as a separate violation of Section 58-55-501 and apply a penalty under this section to
804 each violation.

805 (7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
806 into the Commerce Service Account created by Section 13-1-2.

807 (b) A penalty that is not paid may be collected by the director by either referring the
808 matter to a collection agency or bringing an action in the district court of the county in which
809 the person against whom the penalty is imposed resides or in the county where the office of the
810 director is located.

811 (c) A county attorney or the attorney general of the state shall provide legal assistance

812 and advice to the director in an action to collect a penalty.

813 (d) In an action brought to collect a penalty, the court shall award reasonable attorney
814 fees and costs to the prevailing party.

815 Section 12. Section **63M-7-404** is amended to read:

816 **63M-7-404. Purpose -- Duties.**

817 (1) The purpose of the commission is to develop guidelines and propose
818 recommendations to the Legislature, the governor, and the Judicial Council regarding:

819 (a) the sentencing and release of juvenile and adult offenders in order to:

820 (i) respond to public comment;

821 (ii) relate sentencing practices and correctional resources;

822 (iii) increase equity in criminal sentencing;

823 (iv) better define responsibility in criminal sentencing; and

824 (v) enhance the discretion of sentencing judges while preserving the role of the Board
825 of Pardons and Parole and the Youth Parole Authority;

826 (b) the length of supervision of adult offenders on probation or parole in order to:

827 (i) increase equity in criminal supervision lengths;

828 (ii) respond to public comment;

829 (iii) relate the length of supervision to an offender's progress;

830 (iv) take into account an offender's risk of offending again;

831 (v) relate the length of supervision to the amount of time an offender has remained
832 under supervision in the community; and

833 (vi) enhance the discretion of the sentencing judges while preserving the role of the
834 Board of Pardons and Parole; and

835 (c) appropriate, evidence-based probation and parole supervision policies and services
836 that assist individuals in successfully completing supervision and reduce incarceration rates
837 from community supervision programs while ensuring public safety, including:

838 (i) treatment and intervention completion determinations based on individualized case

839 action plans;

840 (ii) measured and consistent processes for addressing violations of conditions of
841 supervision;

842 (iii) processes that include using positive reinforcement to recognize an individual's
843 progress in supervision;

844 (iv) engaging with social services agencies and other stakeholders who provide
845 services that meet offender needs; and

846 (v) identifying community violations that may not warrant revocation of probation or
847 parole.

848 (2) (a) The commission shall modify the sentencing guidelines and supervision length
849 guidelines for adult offenders to implement the recommendations of the State Commission on
850 Criminal and Juvenile Justice for reducing recidivism.

851 (b) The modifications under Subsection (2)(a) shall be for the purposes of protecting
852 the public and ensuring efficient use of state funds.

853 (3) (a) The commission shall modify the criminal history score in the sentencing
854 guidelines for adult offenders to implement the recommendations of the State Commission on
855 Criminal and Juvenile Justice for reducing recidivism.

856 (b) The modifications to the criminal history score under Subsection (3)(a) shall
857 include factors in an offender's criminal history that are relevant to the accurate determination
858 of an individual's risk of offending again.

859 (4) (a) The commission shall establish sentencing guidelines for periods of
860 incarceration for individuals who are on probation and:

861 (i) who have violated one or more conditions of probation; and

862 (ii) whose probation has been revoked by the court.

863 (b) For a situation described in Subsection (4)(a), the guidelines shall recommend that
864 a court consider:

865 (i) the seriousness of any violation of the condition of probation;

866 (ii) the probationer's conduct while on probation; and
867 (iii) the probationer's criminal history.

868 (5) (a) The commission shall establish sentencing guidelines for periods of
869 incarceration for individuals who are on parole and:
870 (i) who have violated a condition of parole; and
871 (ii) whose parole has been revoked by the Board of Pardons and Parole.

872 (b) For a situation described in Subsection (5)(a), the guidelines shall recommend that
873 the Board of Pardons and Parole consider:
874 (i) the seriousness of any violation of the condition of parole;
875 (ii) the individual's conduct while on parole; and
876 (iii) the individual's criminal history.

877 (6) The commission shall establish graduated and evidence-based processes to
878 facilitate the prompt and effective response to an individual's progress in or violation of the
879 terms of probation or parole by the adult probation and parole section of the Department of
880 Corrections, or other supervision services provider, to implement the recommendations of the
881 State Commission on Criminal and Juvenile Justice for reducing recidivism and incarceration,
882 including:
883 (a) responses to be used when an individual violates a condition of probation or parole;
884 (b) responses to recognize positive behavior and progress related to an individual's case
885 action plan;
886 (c) when a violation of a condition of probation or parole should be reported to the
887 court or the Board of Pardons and Parole; and
888 (d) a range of sanctions that may not exceed a period of incarceration of more than:
889 (i) three consecutive days; and
890 (ii) a total of five days in a period of 30 days.

891 (7) The commission shall establish graduated incentives to facilitate a prompt and
892 effective response by the adult probation and parole section of the Department of Corrections

893 to an offender's:

894 (a) compliance with the terms of probation or parole; and

895 (b) positive conduct that exceeds those terms.

896 (8) (a) The commission shall establish guidelines, including sanctions and incentives,

897 to appropriately respond to negative and positive behavior of juveniles who are:

898 (i) nonjudicially adjusted;

899 (ii) placed on diversion;

900 (iii) placed on probation;

901 (iv) placed on community supervision;

902 (v) placed in an out-of-home placement; or

903 (vi) placed in a secure care facility.

904 (b) In establishing guidelines under this Subsection (8), the commission shall consider:

905 (i) the seriousness of the negative and positive behavior;

906 (ii) the juvenile's conduct post-adjudication; and

907 (iii) the delinquency history of the juvenile.

908 (c) The guidelines shall include:

909 (i) responses that are swift and certain;

910 (ii) a continuum of community-based options for juveniles living at home;

911 (iii) responses that target the individual's criminogenic risk and needs; and

912 (iv) incentives for compliance, including earned discharge credits.

913 (9) The commission shall establish and maintain supervision length guidelines in

914 accordance with this section.

915 (10) (a) The commission shall create sentencing guidelines and supervision length

916 guidelines for the following financial and property offenses for which a pecuniary loss to a

917 victim may exceed \$50,000:

918 (i) securities fraud, Sections 61-1-1 and 61-1-21;

919 (ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment

920 adviser representative, Sections 61-1-3 and 61-1-21;

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

922 (iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1,

923 Assault and Related Offenses;

924 (v) arson, Section 76-6-102;

925 (vi) burglary, Section 76-6-202;

926 (vii) theft~~[, Section 76-6-412]~~ under Title 76, Chapter 6, Part 4, Theft;

927 (viii) forgery, Section 76-6-501;

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

929 (x) ~~[fraudulent insurance act]~~ insurance fraud, Section 76-6-521;

930 (xi) computer crimes, Section 76-6-703;

931 (xii) mortgage fraud, Sections 76-6-1203 and 76-6-1204;

932 (xiii) pattern of unlawful activity, Sections 76-10-1603 and 76-10-1603.5;

933 (xiv) communications fraud, Section 76-10-1801;

934 (xv) money laundering, Section 76-10-1904; and

935 (xvi) other offenses in the discretion of the commission.

936 (b) The guidelines described in Subsection (10)(a) shall include a sentencing matrix

937 with proportionate escalating sanctions based on the amount of a victim's loss.

938 (c) On or before August 1, 2022, the commission shall publish for public comment the

939 guidelines described in Subsection (10)(a).

940 (11) (a) Before January 1, 2023, the commission shall study the offenses of sexual

941 exploitation of a minor and aggravated sexual exploitation of a minor under Sections

942 76-5b-201 and 76-5b-201.1.

943 (b) The commission shall update sentencing and release guidelines and juvenile

944 disposition guidelines to reflect appropriate sanctions for an offense listed in Subsection

945 (11)(a), including the application of aggravating and mitigating factors specific to the offense.

946 Section 13. Section 73-2-27 is amended to read:

947 **73-2-27. Criminal penalties.**

948 (1) This section applies to offenses committed under:

949 (a) Section 73-1-14;

950 (b) Section 73-1-15;

951 (c) Section 73-2-20;

952 (d) Section 73-3-3;

953 (e) Section 73-3-26;

954 (f) Section 73-3-29;

955 (g) Section 73-5-9;

956 (h) Section 76-10-201;

957 (i) Section 76-10-202; and

958 (j) Section 76-10-203.

959 (2) Under circumstances not amounting to an offense with a greater penalty under
960 Subsection [~~76-6-106(2)(b)(ii)~~] 76-6-106(2)(a)(ii) or Section 76-6-404, violation of a provision
961 listed in Subsection (1) is punishable:

962 (a) as a felony of the third degree if:

963 (i) the value of the water diverted or property damaged or taken is \$2,500 or greater;

964 and

965 (ii) the person violating the provision has previously been convicted of violating the
966 same provision;

967 (b) as a class A misdemeanor if:

968 (i) the value of the water diverted or property damaged or taken is \$2,500 or greater; or

969 (ii) the person violating the provision has previously been convicted of violating the
970 same provision; or

971 (c) as a class B misdemeanor if Subsection (2)(a) or (b) does not apply.

972 Section 14. Section 76-3-203.1 is amended to read:

973 **76-3-203.1. Offenses committed in concert with three or more persons or in**

974 **relation to a criminal street gang -- Notice -- Enhanced penalties.**

975 (1) As used in this section:

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

977 (b) "In concert with three or more persons" means:

978 (i) the defendant was aided or encouraged by at least three other persons in committing
979 the offense and was aware of this aid or encouragement; and

980 (ii) each of the other persons:

981 (A) was physically present; and

982 (B) participated as a party to any offense listed in Subsection (4), (5), or (6).

983 (c) "In concert with three or more persons" means, regarding intent:

984 (i) other persons participating as parties need not have the intent to engage in the same
985 offense or degree of offense as the defendant; and

986 (ii) a minor is a party if the minor's actions would cause the minor to be a party if the
987 minor were an adult.

988 (2) A person who commits any offense in accordance with this section is subject to an
989 enhanced penalty as provided in Subsection (4), (5), or (6) if the trier of fact finds beyond a
990 reasonable doubt that the person acted:

991 (a) in concert with three or more persons;

992 (b) for the benefit of, at the direction of, or in association with any criminal street gang
993 as defined in Section 76-9-802; or

994 (c) to gain recognition, acceptance, membership, or increased status with a criminal
995 street gang as defined in Section 76-9-802.

996 (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to
997 be subscribed upon the information or indictment notice that the defendant is subject to the
998 enhanced penalties provided under this section.

999 (4) (a) For an offense listed in Subsection (4)(b), a person may be charged as follows:

1000 (i) for a class B misdemeanor, as a class A misdemeanor; and

- 1001 (ii) for a class A misdemeanor, as a third degree felony.
- 1002 (b) The following offenses are subject to Subsection (4)(a):
- 1003 (i) criminal mischief as [~~defined~~] described in Section [76-6-106](#); [~~and~~]
- 1004 (ii) property damage or destruction as described in Section [76-6-106.1](#); and
- 1005 [~~(ii)~~] (iii) defacement by graffiti as [~~defined~~] described in Section [76-6-107](#).
- 1006 (5) (a) For an offense listed in Subsection (5)(b), a person may be charged as follows:
- 1007 (i) for a class B misdemeanor, as a class A misdemeanor;
- 1008 (ii) for a class A misdemeanor, as a third degree felony; and
- 1009 (iii) for a third degree felony, as a second degree felony.
- 1010 (b) The following offenses are subject to Subsection (5)(a):
- 1011 (i) burglary, if committed in a dwelling as defined in Subsection [~~76-6-202(2)~~]
- 1012 [76-6-202\(3\)\(b\)](#);
- 1013 (ii) any offense of obstructing government operations under Chapter 8, Part 3,
- 1014 Obstructing Governmental Operations, except Sections [76-8-302](#), [76-8-303](#), [76-8-307](#),
- 1015 [76-8-308](#), and [76-8-312](#);
- 1016 (iii) tampering with a witness or other violation of Section [76-8-508](#);
- 1017 (iv) retaliation against a witness, victim, informant, or other violation of Section
- 1018 [76-8-508.3](#);
- 1019 (v) extortion or bribery to dismiss a criminal proceeding as defined in Section
- 1020 [76-8-509](#);
- 1021 (vi) any weapons offense under Chapter 10, Part 5, Weapons; and
- 1022 (vii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act.
- 1023 (6) (a) For an offense listed in Subsection (6)(b), a person may be charged as follows:
- 1024 (i) for a class B misdemeanor, as a class A misdemeanor;
- 1025 (ii) for a class A misdemeanor, as a third degree felony;
- 1026 (iii) for a third degree felony, as a second degree felony; and
- 1027 (iv) for a second degree felony, as a first degree felony.

- 1028 (b) The following offenses are subject to Subsection (6)(a):
- 1029 (i) assault and related offenses under Chapter 5, Part 1, Assault and Related Offenses;
- 1030 (ii) any criminal homicide offense under Chapter 5, Part 2, Criminal Homicide;
- 1031 (iii) kidnapping and related offenses under Chapter 5, Part 3, Kidnapping, Trafficking,
- 1032 and Smuggling;
- 1033 (iv) any felony sexual offense under Chapter 5, Part 4, Sexual Offenses;
- 1034 (v) sexual exploitation of a minor as defined in Section 76-5b-201;
- 1035 (vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;
- 1036 (vii) robbery and aggravated robbery under Chapter 6, Part 3, Robbery; and
- 1037 (viii) aggravated exploitation of prostitution under Section 76-10-1306.

1038 (7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the

1039 individual placed on probation for the higher level of offense.

1040 (8) It is not a bar to imposing the enhanced penalties under this section that the persons

1041 with whom the actor is alleged to have acted in concert are not identified, apprehended,

1042 charged, or convicted, or that any of those persons are charged with or convicted of a different

1043 or lesser offense.

1044 Section 15. Section 76-3-203.3 is amended to read:

1045 **76-3-203.3. Penalty for hate crimes -- Civil rights violation.**

1046 As used in this section:

1047 (1) "Primary offense" means those offenses provided in Subsection (4).

1048 (2) (a) A person who commits any primary offense with the intent to intimidate or

1049 terrorize another person or with reason to believe that his action would intimidate or terrorize

1050 that person is subject to Subsection (2)(b).

1051 (b) (i) A class C misdemeanor primary offense is a class B misdemeanor; and

1052 (ii) a class B misdemeanor primary offense is a class A misdemeanor.

1053 (3) "Intimidate or terrorize" means an act which causes the person to fear for his

1054 physical safety or damages the property of that person or another. The act must be

1055 accompanied with the intent to cause or has the effect of causing a person to reasonably fear to
1056 freely exercise or enjoy any right secured by the Constitution or laws of the state or by the
1057 Constitution or laws of the United States.

1058 (4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:

1059 (a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106,
1060 76-5-107, and 76-5-108;

1061 (b) any misdemeanor property destruction offense under Sections 76-6-102 and
1062 76-6-104, and Subsection [~~76-6-106(2)(b)~~] 76-6-106(2)(a);

1063 (c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;

1064 (d) any misdemeanor theft offense under Section 76-6-412;

1065 (e) any offense of obstructing government operations under Sections 76-8-301,
1066 76-8-302, 76-8-305, 76-8-306, 76-8-307, 76-8-308, and 76-8-313;

1067 (f) any offense of interfering or intending to interfere with activities of colleges and
1068 universities under Title 76, Chapter 8, Part 7, Colleges and Universities;

1069 (g) any misdemeanor offense against public order and decency as defined in Title 76,
1070 Chapter 9, Part 1, Breaches of the Peace and Related Offenses;

1071 (h) any telephone abuse offense under Title 76, Chapter 9, Part 2, Electronic
1072 Communication and Telephone Abuse;

1073 (i) any cruelty to animals offense under Section 76-9-301;

1074 (j) any weapons offense under Section 76-10-506; or

1075 (k) a violation of Section 76-9-102, if the violation occurs at an official meeting.

1076 (5) This section does not affect or limit any individual's constitutional right to the
1077 lawful expression of free speech or other recognized rights secured by the Constitution or laws
1078 of the state or by the Constitution or laws of the United States.

1079 Section 16. Section 76-3-203.5 is amended to read:

1080 **76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.**

1081 (1) As used in this section:

1082 (a) "Felony" means any violation of a criminal statute of the state, any other state, the
1083 United States, or any district, possession, or territory of the United States for which the
1084 maximum punishment the offender may be subjected to exceeds one year in prison.

1085 (b) "Habitual violent offender" means a person convicted within the state of any violent
1086 felony and who on at least two previous occasions has been convicted of a violent felony and
1087 committed to either prison in Utah or an equivalent correctional institution of another state or
1088 of the United States either at initial sentencing or after revocation of probation.

1089 (c) "Violent felony" means:

1090 (i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit
1091 any of the following offenses punishable as a felony:

1092 (A) aggravated arson, arson, knowingly causing a catastrophe, and criminal mischief,
1093 Chapter 6, Part 1, Property Destruction;

1094 (B) assault by prisoner, Section 76-5-102.5;

1095 (C) disarming a police officer, Section 76-5-102.8;

1096 (D) aggravated assault, Section 76-5-103;

1097 (E) aggravated assault by prisoner, Section 76-5-103.5;

1098 (F) mayhem, Section 76-5-105;

1099 (G) stalking, Subsection 76-5-106.5(2);

1100 (H) threat of terrorism, Section 76-5-107.3;

1101 (I) aggravated child abuse, Subsection 76-5-109.2(3)(a) or (b);

1102 (J) commission of domestic violence in the presence of a child, Section 76-5-114;

1103 (K) abuse or neglect of a child with a disability, Section 76-5-110;

1104 (L) abuse or exploitation of a vulnerable adult, Section 76-5-111, 76-5-111.2,
1105 76-5-111.3, or 76-5-111.4;

1106 (M) endangerment of a child or vulnerable adult, Section 76-5-112.5;

1107 (N) criminal homicide offenses under Chapter 5, Part 2, Criminal Homicide;

1108 (O) kidnapping, child kidnapping, and aggravated kidnapping under Chapter 5, Part 3,

- 1109 Kidnapping, Trafficking, and Smuggling;
- 1110 (P) rape, Section [76-5-402](#);
- 1111 (Q) rape of a child, Section [76-5-402.1](#);
- 1112 (R) object rape, Section [76-5-402.2](#);
- 1113 (S) object rape of a child, Section [76-5-402.3](#);
- 1114 (T) forcible sodomy, Section [76-5-403](#);
- 1115 (U) sodomy on a child, Section [76-5-403.1](#);
- 1116 (V) forcible sexual abuse, Section [76-5-404](#);
- 1117 (W) sexual abuse of a child, Section [76-5-404.1](#), or aggravated sexual abuse of a child,
- 1118 Section [76-5-404.3](#);
- 1119 (X) aggravated sexual assault, Section [76-5-405](#);
- 1120 (Y) sexual exploitation of a minor, Section [76-5b-201](#);
- 1121 (Z) aggravated sexual exploitation of a minor, Section [76-5b-201.1](#);
- 1122 (AA) sexual exploitation of a vulnerable adult, Section [76-5b-202](#);
- 1123 (BB) aggravated burglary and burglary of a dwelling under Chapter 6, Part 2, Burglary
- 1124 and Criminal Trespass;
- 1125 (CC) aggravated robbery and robbery under Chapter 6, Part 3, Robbery;
- 1126 (DD) theft by extortion under [~~Subsection [76-6-406\(2\)\(a\) or \(b\)](#)~~] [Section 76-6-406](#)
- 1127 under the circumstances described in Subsection [76-6-406\(1\)\(a\)\(i\) or \(ii\)](#);
- 1128 (EE) tampering with a witness under Subsection [76-8-508\(1\)](#);
- 1129 (FF) retaliation against a witness, victim, or informant under Section [76-8-508.3](#);
- 1130 (GG) tampering with a juror under Subsection [76-8-508.5\(2\)\(c\)](#);
- 1131 (HH) extortion to dismiss a criminal proceeding under Section [76-8-509](#) if by any
- 1132 threat or by use of force theft by extortion has been committed [~~pursuant to Subsections~~
- 1133 [76-6-406\(2\)\(a\), \(b\), and \(i\)](#)] under Section [76-6-406](#) under the circumstances described in
- 1134 Subsection [76-6-406\(1\)\(a\)\(i\), \(ii\), or \(ix\)](#);
- 1135 (II) possession, use, or removal of explosive, chemical, or incendiary devices under

1136 Subsections 76-10-306(3) through (6);
1137 (JJ) unlawful delivery of explosive, chemical, or incendiary devices under Section
1138 76-10-307;
1139 (KK) purchase or possession of a dangerous weapon or handgun by a restricted person
1140 under Section 76-10-503;
1141 (LL) unlawful discharge of a firearm under Section 76-10-508;
1142 (MM) aggravated exploitation of prostitution under Subsection 76-10-1306(1)(a);
1143 (NN) bus hijacking under Section 76-10-1504; and
1144 (OO) discharging firearms and hurling missiles under Section 76-10-1505; or
1145 (ii) any felony violation of a criminal statute of any other state, the United States, or
1146 any district, possession, or territory of the United States which would constitute a violent
1147 felony as defined in this Subsection (1) if committed in this state.
1148 (2) If a person is convicted in this state of a violent felony by plea or by verdict and the
1149 trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender
1150 under this section, the penalty for a:
1151 (a) third degree felony is as if the conviction were for a first degree felony;
1152 (b) second degree felony is as if the conviction were for a first degree felony; or
1153 (c) first degree felony remains the penalty for a first degree penalty except:
1154 (i) the convicted person is not eligible for probation; and
1155 (ii) the Board of Pardons and Parole shall consider that the convicted person is a
1156 habitual violent offender as an aggravating factor in determining the length of incarceration.
1157 (3) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall
1158 provide notice in the information or indictment that the defendant is subject to punishment as a
1159 habitual violent offender under this section. Notice shall include the case number, court, and
1160 date of conviction or commitment of any case relied upon by the prosecution.
1161 (b) (i) The defendant shall serve notice in writing upon the prosecutor if the defendant
1162 intends to deny that:

1163 (A) the defendant is the person who was convicted or committed;
1164 (B) the defendant was represented by counsel or had waived counsel; or
1165 (C) the defendant's plea was understandingly or voluntarily entered.
1166 (ii) The notice of denial shall be served not later than five days prior to trial and shall
1167 state in detail the defendant's contention regarding the previous conviction and commitment.
1168 (4) (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to
1169 a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge,
1170 of the:
1171 (i) defendant's previous convictions for violent felonies, except as otherwise provided
1172 in the Utah Rules of Evidence; or
1173 (ii) allegation against the defendant of being a habitual violent offender.
1174 (b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of
1175 being an habitual violent offender by the same jury, if practicable, unless the defendant waives
1176 the jury, in which case the allegation shall be tried immediately to the court.
1177 (c) (i) Before or at the time of sentencing the trier of fact shall determine if this section
1178 applies.
1179 (ii) The trier of fact shall consider any evidence presented at trial and the prosecution
1180 and the defendant shall be afforded an opportunity to present any necessary additional
1181 evidence.
1182 (iii) Before sentencing under this section, the trier of fact shall determine whether this
1183 section is applicable beyond a reasonable doubt.
1184 (d) If any previous conviction and commitment is based upon a plea of guilty or no
1185 contest, there is a rebuttable presumption that the conviction and commitment were regular and
1186 lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the
1187 conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution
1188 to establish by a preponderance of the evidence that the defendant was then represented by
1189 counsel or had lawfully waived the right to have counsel present, and that the defendant's plea

1190 was understandingly and voluntarily entered.

1191 (e) If the trier of fact finds this section applicable, the court shall enter that specific
1192 finding on the record and shall indicate in the order of judgment and commitment that the
1193 defendant has been found by the trier of fact to be a habitual violent offender and is sentenced
1194 under this section.

1195 (5) (a) The sentencing enhancement provisions of Section 76-3-407 supersede the
1196 provisions of this section.

1197 (b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in
1198 Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part 4, Sexual
1199 Offenses, to determine if the convicted person is a habitual violent offender.

1200 (6) The sentencing enhancement described in this section does not apply if:

1201 (a) the offense for which the person is being sentenced is:

1202 (i) a grievous sexual offense;

1203 (ii) child kidnapping, Section 76-5-301.1;

1204 (iii) aggravated kidnapping, Section 76-5-302; or

1205 (iv) forcible sexual abuse, Section 76-5-404; and

1206 (b) applying the sentencing enhancement provided for in this section would result in a
1207 lower maximum penalty than the penalty provided for under the section that describes the
1208 offense for which the person is being sentenced.

1209 Section 17. Section 76-3-203.15, which is renumbered from Section 76-6-109 is
1210 renumbered and amended to read:

1211 ~~[76-6-109].~~ **76-3-203.15. Offenses committed against timber, mining, or**
1212 **agricultural industries -- Enhanced penalties.**

1213 (1) ~~[A person]~~ An actor who commits any criminal offense with the intent to halt,
1214 impede, obstruct, or interfere with the lawful management, cultivation, or harvesting of trees or
1215 timber, or the management or operations of agricultural or mining industries is subject to an
1216 enhanced penalty for the offense as provided below. ~~[However, this section does not apply to~~

1217 ~~action protected by the National Labor Relations Act, 29 U.S.C. Section 151 et seq., or the~~
1218 ~~Federal Railway Labor Act, 45 U.S.C. Section 151 et seq.]~~

1219 (2) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to
1220 be subscribed upon the complaint in misdemeanor cases or the information or indictment in
1221 felony cases notice that the defendant is subject to the enhanced penalties provided under this
1222 section.

1223 (3) If the trier of fact finds beyond a reasonable doubt that the defendant committed
1224 any criminal offense with the intent to halt, impede, obstruct, or interfere with the lawful
1225 management, cultivation, or harvesting of trees or timber, or the management or operations of
1226 agricultural or mining industries, the penalties are enhanced as provided in this Subsection (3):

1227 (a) a class C misdemeanor is a class B misdemeanor, with a mandatory fine of not less
1228 than \$1,000, which is in addition to any term of imprisonment the court may impose;

1229 (b) a class B misdemeanor is a Class A misdemeanor, with a fine of not less than
1230 \$2,500, which is in addition to any term of imprisonment the court may impose;

1231 (c) a class A misdemeanor is a third degree felony, with a fine of not less than \$5,000,
1232 which is in addition to any term of imprisonment the court may impose;

1233 (d) a third degree felony is a second degree felony, with a fine of not less than \$7,500,
1234 which is in addition to any term of imprisonment the court may impose; and

1235 (e) a second degree felony is subject to a fine of not less than \$10,000, which is in
1236 addition to any term of imprisonment the court may impose.

1237 (4) This section does not apply to action protected by the National Labor Relations Act,
1238 29 U.S.C. Sec. 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Sec. 151 et seq.

1239 Section 18. Section ~~76-3-203.16~~, which is renumbered from Section 76-6-110 is
1240 renumbered and amended to read:

1241 ~~[76-6-110].~~ **76-3-203.16. Offenses committed against animal enterprises --**
1242 **Definitions -- Enhanced penalties.**

1243 (1) As used in this section:

1244 (a) "Animal enterprise" means a commercial or academic enterprise that:
1245 (i) uses animals for food or fiber production;
1246 (ii) is an agricultural operation, including a facility for the production of crops or
1247 livestock, or livestock products;
1248 (iii) operates a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or
1249 (iv) any fair or similar event intended to advance agricultural arts and sciences.
1250 (b) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated
1251 elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised
1252 or kept for profit.
1253 (c) "Property" includes any buildings, vehicles, animals, data, records, stables,
1254 livestock handling facilities, livestock watering troughs or other watering facilities, and fencing
1255 or other forms of enclosure.
1256 (2) ~~[(a)]~~ A person who commits any criminal offense with the intent to halt, impede,
1257 obstruct, or interfere with the lawful operation of an animal enterprise or to damage, take, or
1258 cause the loss of any property owned by, used by, or in the possession of a lawful animal
1259 enterprise, is subject to an enhanced penalty under Subsection ~~[(3)]~~ (4).
1260 ~~[(b) Subsection (2)(a) does not apply to action protected by the National Labor~~
1261 ~~Relations Act, 29 U.S.C. Section 151 et seq., or the Federal Railway Labor Act, 45 U.S.C.~~
1262 ~~Section 151 et seq.]~~
1263 ~~[(e)]~~ (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause
1264 to be subscribed upon the information or indictment notice that the defendant is subject to the
1265 enhanced penalties provided under this section.
1266 ~~[(3)]~~ (4) If the trier of fact finds beyond a reasonable doubt that the defendant
1267 committed any criminal offense with the intent to halt, impede, obstruct, or interfere with the
1268 lawful operation of an animal enterprise or to damage, take, or cause the loss of any property
1269 owned by, used by, or in the possession of a lawful animal enterprise, the penalties are
1270 enhanced as provided in this Subsection ~~[(3)]~~ (4):

1271 (a) a class C misdemeanor is a class B misdemeanor, with a mandatory fine of not less
1272 than \$1,000, which is in addition to any term of imprisonment the court may impose;

1273 (b) a class B misdemeanor is a class A misdemeanor, with a fine of not less than
1274 \$2,500, which is in addition to any term of imprisonment the court may impose;

1275 (c) a class A misdemeanor is a third degree felony, with a fine of not less than \$5,000,
1276 which is in addition to any term of imprisonment the court may impose;

1277 (d) a third degree felony is a second degree felony, with a fine of not less than \$7,500,
1278 which is in addition to any term of imprisonment the court may impose; and

1279 (e) a second degree felony is subject to a fine of not less than \$10,000, which is in
1280 addition to any term of imprisonment the court may impose.

1281 (5) This section does not apply to action protected by the National Labor Relations Act,
1282 29 U.S.C. Sec. 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Sec. 151 et seq.

1283 Section 19. Section **76-3-410**, which is renumbered from Section 76-6-107.1 is
1284 renumbered and amended to read:

1285 ~~[76-6-107.1].~~ **76-3-410. Compensatory service -- Graffiti penalties.**

1286 (1) If an ~~[offender uses]~~ actor uses graffiti and is convicted under Section 76-6-106,
1287 76-6-106.1, 76-6-107, or 76-6-206 for the use of graffiti, the court may, as a condition of
1288 probation under Subsection 77-18-105(6), order the ~~[offender]~~ actor to clean up graffiti of the
1289 ~~[offender]~~ actor and any other at a time and place within the jurisdiction of the court.

1290 (a) For a first conviction or adjudication, the court may require the ~~[offender]~~ actor to
1291 clean up graffiti for not less than eight hours.

1292 (b) For a second conviction or adjudication, the court may require the ~~[offender]~~ actor
1293 to clean up graffiti for not less than 16 hours.

1294 (c) For a third conviction or adjudication, the court may require the ~~[offender]~~ actor to
1295 clean up graffiti for not less than 24 hours.

1296 (2) The ~~[offender]~~ actor convicted under Section 76-6-106, 76-6-106.1, 76-6-206, or
1297 76-6-107 shall be responsible for removal costs as determined under Section 76-6-107, unless

1298 waived by the court for good cause.

1299 (3) The court may also require the [~~offender~~] actor to perform other alternative forms
1300 of restitution or repair to the damaged property in accordance with Subsection 77-18-105(6).

1301 Section 20. Section 76-5-102.1 is amended to read:

1302 **76-5-102.1. Negligently operating a vehicle resulting in injury.**

1303 (1) (a) As used in this section:

1304 [~~(a)~~] (i) "Controlled substance" means the same as that term is defined in Section
1305 58-37-2.

1306 [~~(b)~~] (ii) "Drug" means the same as that term is defined in Section 76-5-207.

1307 [~~(c)~~] (iii) "Negligent" or "negligence" means the same as that term is defined in Section
1308 76-5-207.

1309 [~~(d)~~] (iv) "Vehicle" means the same as that term is defined in Section 41-6a-501.

1310 (b) Terms defined in Section 76-1-101.5 apply to this section.

1311 (2) An actor commits negligently operating a vehicle resulting in injury if the actor:

1312 (a) (i) operates a vehicle in a negligent manner causing bodily injury to another; and
1313 (ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical test
1314 shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the
1315 time of the test;

1316 (B) is under the influence of alcohol, a drug, or the combined influence of alcohol and
1317 a drug to a degree that renders the actor incapable of safely operating a vehicle; or

1318 (C) has a blood or breath alcohol concentration of .05 grams or greater at the time of
1319 operation; or

1320 (b) (i) operates a vehicle in a criminally negligent manner causing bodily injury to
1321 another; and

1322 (ii) has in the actor's body any measurable amount of a controlled substance.

1323 (3) Except as provided in Subsection (4), a violation of Subsection (2) is:

1324 (a) (i) a class A misdemeanor; or

1325 (ii) a third degree felony if the bodily injury is serious bodily injury; and
1326 (b) a separate offense for each victim suffering bodily injury as a result of the actor's
1327 violation of this section, regardless of whether the injuries arise from the same episode of
1328 driving.

1329 (4) An actor is not guilty of negligently operating a vehicle resulting in injury under
1330 Subsection (2)(b) if:

1331 (a) the controlled substance was obtained under a valid prescription or order, directly
1332 from a practitioner while acting in the course of the practitioner's professional practice, or as
1333 otherwise authorized by Title 58, Occupations and Professions;

1334 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

1335 (c) the actor possessed, in the actor's body, a controlled substance listed in Section
1336 [58-37-4.2](#) if:

1337 (i) the actor is the subject of medical research conducted by a holder of a valid license
1338 to possess controlled substances under Section [58-37-6](#); and

1339 (ii) the substance was administered to the actor by the medical researcher.

1340 (5) (a) A judge imposing a sentence under this section may consider:

1341 (i) the sentencing guidelines developed in accordance with Section [63M-7-404](#);

1342 (ii) the defendant's history;

1343 (iii) the facts of the case;

1344 (iv) aggravating and mitigating factors; or

1345 (v) any other relevant fact.

1346 (b) The judge may not impose a lesser sentence than would be required for a conviction
1347 based on the defendant's history under Section [41-6a-505](#).

1348 (c) The standards for chemical breath analysis under Section [41-6a-515](#) and the
1349 provisions for the admissibility of chemical test results under Section [41-6a-516](#) apply to
1350 determination and proof of blood alcohol content under this section.

1351 (d) A calculation of blood or breath alcohol concentration under this section shall be

1352 made in accordance with Subsection 41-6a-502(2).

1353 (e) Except as provided in Subsection (4), the fact that an actor charged with violating
1354 this section is or has been legally entitled to use alcohol or a drug is not a defense.

1355 (f) Evidence of a defendant's blood or breath alcohol content or drug content is
1356 admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution,
1357 or the Utah Constitution.

1358 (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense
1359 described in this section may not be held in abeyance.

1360 Section 21. Section 76-5-207.5 is amended to read:

1361 **76-5-207.5. Automobile homicide involving a handheld wireless communication**
1362 **device while driving.**

1363 (1) (a) As used in this section:

1364 (i) "Criminally negligent" means the same as that term is described in Subsection
1365 76-2-103(4).

1366 (ii) "Motor vehicle" means any self-propelled vehicle, including an automobile, truck,
1367 van, motorcycle, train, engine, watercraft, or aircraft.

1368 (iii) "Negligent" means the failure to exercise the degree of care that a reasonable and
1369 prudent person exercises under similar circumstances.

1370 (iv) "Wireless communication device" means the same as that term is defined in
1371 Section 41-6a-1716.

1372 (b) Terms defined in Section 76-1-101.5 apply to this section.

1373 (2) An actor commits automobile homicide if the actor:

1374 (a) operates a moving motor vehicle[:~~]~~ in a negligent manner;

1375 [~~(i)(A) in a negligent manner; or]~~

1376 [~~(B) in a criminally negligent manner; and]~~

1377 [~~(ii)~~] (b) while using a wireless communication device in violation of Section

1378 41-6a-1716; and

1379 ~~[(b)]~~ (c) causes the death of another individual.

1380 (3) (a) ~~[A]~~ Except as provided in Subsection (3)(b), a violation of Subsection

1381 ~~[(2)(a)(i)(A)]~~ (2) is a third degree felony.

1382 (b) A violation of Subsection ~~[(2)(a)(i)(B)]~~ (2) is a second degree felony if the actor
1383 operated the moving motor vehicle in a criminally negligent manner.

1384 Section 22. Section **76-5-208** is amended to read:

1385 **76-5-208. Child abuse homicide -- Penalties.**

1386 (1) (a) As used in this section, "child abuse" means an offense described in Sections
1387 [76-5-109](#), [76-5-109.2](#), [76-5-109.3](#), and [76-5-114](#).

1388 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

1389 (2) Unless a violation amounts to aggravated murder as described in Section [76-5-202](#),
1390 an actor commits child abuse homicide if:

1391 (a) (i) the actor causes the death of another individual who is younger than 18 years
1392 old; and

1393 (ii) the individual's death results from child abuse; and

1394 (b) (i) the child abuse is done recklessly under Subsection [76-5-109.2\(3\)\(b\)](#);

1395 (ii) the child abuse is done with criminal negligence under Subsection
1396 [76-5-109.2\(3\)\(c\)](#); or

1397 (iii) under circumstances not amounting to the type of child abuse homicide described
1398 in Subsection (2)(b)(i), the child abuse is done intentionally, knowingly, recklessly, or with
1399 criminal negligence, under Subsection [76-5-109\(3\)\(a\)](#), (b), or (c).

1400 (3) (a) A violation of Subsection (2) under the circumstances described in Subsection
1401 (2)(b)(i) is a first degree felony.

1402 (b) A violation of Subsection (2) under the circumstances described in Subsection
1403 (2)(b)(ii) or (iii) is a second degree felony.

1404 Section 23. Section **76-6-101** is amended to read:

1405 **76-6-101. Definitions.**

1406 (1) ~~[For purposes of this chapter]~~ As used in this part:

1407 (a) "Etching" means defacing, damaging, or destroying hard surfaces by means of an
1408 abrasive object, a knife, or an engraving device, or a chemical action which uses any caustic
1409 cream, gel, liquid, or solution.

1410 (b) "Fire" means a flame, heat source capable of combustion, or material capable of
1411 combustion that is caused, set, or maintained by a person for any purpose.

1412 (c) "Graffiti" means any form of unauthorized printing, writing, spraying, scratching,
1413 painting, affixing, etching, or inscribing on the property of another regardless of the content or
1414 the nature of the material used in the commission of the act.

1415 ~~[(b)]~~ (d) "Habitable structure" means any building, vehicle, trailer, railway car, aircraft,
1416 or watercraft used for lodging or assembling persons or conducting business whether a person
1417 is actually present or not.

1418 ~~[(e)]~~ (e) "Property" means:

1419 (i) any form of real property or tangible personal property which is capable of being
1420 damaged or destroyed and includes a habitable structure; and

1421 (ii) the property of another, if anyone other than the actor has a possessory or
1422 proprietary interest in any portion of the property.

1423 ~~[(f)]~~ (f) "Value" means:

1424 (i) the market value of the property, if totally destroyed, at the time and place of the
1425 offense, or where cost of replacement exceeds the market value; or

1426 (ii) where the market value cannot be ascertained, the cost of repairing or replacing the
1427 property within a reasonable time following the offense.

1428 (2) Terms defined in Section [76-1-101.5](#) apply to this part.

1429 ~~[(2)]~~ (3) If the property damaged has a value that cannot be ascertained by the criteria
1430 set forth in Subsection ~~[(1)(d)]~~ (1)(f), the property shall be considered to have a value less than
1431 \$500.

1432 Section 24. Section **76-6-102** is amended to read:

1433 **76-6-102. Arson.**

1434 (1) ~~[A person is guilty of]~~ Terms defined in Sections 76-1-101.5 and 76-6-101 apply to
1435 this section.

1436 (2) An actor commits arson if, under circumstances not amounting to aggravated arson,
1437 the person by means of fire or explosives unlawfully and intentionally damages:

1438 (a) any property with intention of defrauding an insurer; or

1439 (b) the property of another.

1440 ~~[(2)]~~ (3) (a) A violation of Subsection ~~[(1)(a)]~~ (2)(a) is a second degree felony.

1441 ~~[(3)]~~ (b) A violation of Subsection ~~[(1)(b)]~~ (2)(b) is a second degree felony if:

1442 ~~[(a)]~~ (i) the damage caused is or exceeds \$5,000 in value;

1443 ~~[(b)]~~ (ii) as a proximate result of the fire or explosion, any person not a participant in
1444 the offense suffers serious bodily injury as defined in Section 76-1-101.5;

1445 ~~[(c)]~~ (iii) ~~[(1)]~~ (A) the damage caused is or exceeds \$1,500 but is less than \$5,000 in
1446 value; and

1447 ~~[(1)]~~ (B) at the time of the offense the actor has been previously convicted of a
1448 violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior
1449 to the commission of the violation of Subsection ~~[(1)(b)]~~ (2)(b).

1450 ~~[(4)]~~ (c) A violation of Subsection ~~[(1)(b)]~~ (2)(b) is a third degree felony if:

1451 ~~[(a)]~~ (i) the damage caused is or exceeds \$1,500 but is less than \$5,000 in value;

1452 ~~[(b)]~~ (ii) as a proximate result of the fire or explosion, any person not a participant in
1453 the offense suffers substantial bodily injury as defined in Section 76-1-101.5;

1454 ~~[(c)]~~ (iii) the fire or explosion endangers human life; or

1455 ~~[(d)]~~ (iv) ~~[(1)]~~ (A) the damage caused is or exceeds \$500 but is less than \$1,500 in
1456 value; and

1457 ~~[(1)]~~ (B) at the time of the offense the actor has been previously convicted of a
1458 violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior
1459 to the commission of the violation of Subsection ~~[(1)(b)]~~ (2)(b).

1460 ~~[(5)]~~ (d) A violation of Subsection ~~[(1)(b)]~~ (2)(b) is a class A misdemeanor if the
1461 damage caused:

1462 ~~[(a)]~~ (i) is or exceeds \$500 but is less than \$1,500 in value; or

1463 ~~[(b)]~~ (ii) ~~[(1)]~~ (A) is less than \$500; and

1464 ~~[(1)]~~ (B) at the time of the offense the actor has been previously convicted of a
1465 violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior
1466 to the commission of the violation of Subsection ~~[(1)(b)]~~ (2)(b).

1467 ~~[(6)]~~ (e) A violation of Subsection ~~[(1)(b)]~~ (2)(b) is a class B misdemeanor if the
1468 damage caused is less than \$500.

1469 Section 25. Section 76-6-103 is amended to read:

1470 **76-6-103. Aggravated arson.**

1471 (1) ~~[A person is guilty of]~~ Terms defined in Sections 76-1-101.5 and 76-6-101 apply to
1472 this section.

1473 (2) An actor commits aggravated arson if by means of fire or explosives ~~[he]~~ the actor
1474 intentionally and unlawfully damages:

1475 (a) a habitable structure; or

1476 (b) any structure or vehicle when any person not a participant in the offense is in the
1477 structure or vehicle.

1478 ~~[(2) Aggravated arson is a felony of the first degree.]~~

1479 (3) A violation of Subsection (2) is a first degree felony.

1480 Section 26. Section 76-6-104 is amended to read:

1481 **76-6-104. Reckless burning.**

1482 (1) ~~[A person is guilty of]~~ Terms defined in Sections 76-1-101.5 and 76-6-101 apply to
1483 this section.

1484 (2) An actor commits reckless burning if the ~~[person]~~ actor:

1485 (a) recklessly starts a fire or causes an explosion which endangers human life;

1486 (b) having started a fire, whether recklessly or not, and knowing that it is spreading and

1487 will endanger the life or property of another, either fails to take reasonable measures to put out
1488 or control the fire or fails to give a prompt fire alarm;

1489 (c) builds or maintains a fire without taking reasonable steps to remove all flammable
1490 materials surrounding the site of the fire as necessary to prevent the fire's spread or escape; or

1491 (d) damages the property of another by reckless use of fire or causing an explosion.

1492 ~~[(2)]~~ (3) (a) A violation of Subsection ~~[(1)(a)]~~ (2)(a) or (b) is a class A misdemeanor.

1493 (b) A violation of Subsection ~~[(1)(c)]~~ (2)(c) is a class B misdemeanor.

1494 (c) A violation of Subsection ~~[(1)(d)]~~ (2)(d) is:

1495 (i) a class A misdemeanor if damage to property is or exceeds \$1,500 in value;

1496 (ii) a class B misdemeanor if the damage to property is or exceeds \$500 but is less than
1497 \$1,500 in value; and

1498 (iii) a class C misdemeanor if the damage to property is or exceeds \$150 but is less
1499 than \$500 in value.

1500 (d) Any other violation under Subsection ~~[(1)(d)]~~ (2)(d) is an infraction.

1501 Section 27. Section **76-6-104.5** is amended to read:

1502 **76-6-104.5. Abandonment of a fire -- Penalties.**

1503 (1) ~~[A person is guilty of abandoning]~~ Terms defined in Sections [76-1-101.5](#) and
1504 [76-6-101](#) apply to this section.

1505 (2) An actor commits abandonment of a fire if, under circumstances not amounting to
1506 the offense of arson, aggravated arson, or causing a catastrophe ~~[under Title 76, Chapter 6, Part~~
1507 ~~1, Property Destruction, the person],~~ the actor leaves a fire:

1508 (a) without first completely extinguishing it; and

1509 (b) with the intent to not return to the fire.

1510 ~~[(2) A person does not commit a violation of Subsection (1) if the person leaves a fire~~
1511 ~~to report an uncontrolled fire.]~~

1512 (3) A violation of Subsection ~~[(1)]~~ (2):

1513 (a) is a class C misdemeanor if there is no property damage;

1514 (b) is a class B misdemeanor if property damage is less than \$1,000 in value; and
1515 (c) is a class A misdemeanor if property damage is or exceeds \$1,000 in value.

1516 (4) An actor does not commit a violation of Subsection (2) if the actor leaves a fire to
1517 report an uncontrolled fire.

1518 ~~[(4)]~~ (5) If a violation of Subsection ~~[(1)]~~ (2) involves a wildland fire, the ~~[violator]~~
1519 actor is also liable for suppression costs under Section 65A-3-4.

1520 ~~[(5)]~~ (6) A fire spreading or reigniting is prima facie evidence that the ~~[person]~~ actor
1521 did not completely extinguish the fire as required by Subsection ~~[(1)(a)]~~ (2)(a).

1522 Section 28. Section 76-6-105 is amended to read:

1523 **76-6-105. Causing a catastrophe -- Penalties.**

1524 (1) ~~[Any person is guilty of]~~ Terms defined in Sections 76-1-101.5 and 76-6-101 apply
1525 to this section.

1526 (2) An actor commits causing a catastrophe if the [person] actor causes widespread
1527 injury or damage to persons or property by:

1528 (a) use of a weapon of mass destruction as defined in Section 76-10-401; or

1529 (b) explosion, fire, flood, avalanche, collapse of a building, or other harmful or
1530 destructive force or substance that is not a weapon of mass destruction.

1531 ~~[(2)]~~ (3) ~~[Causing a catastrophe]~~ A violation of Subsection (2) is:

1532 (a) a first degree felony if the ~~[person]~~ actor causes the catastrophe knowingly and by
1533 the use of a weapon of mass destruction;

1534 (b) a second degree felony if the ~~[person]~~ actor causes the catastrophe knowingly and
1535 by a means other than a weapon of mass destruction; and

1536 (c) a class A misdemeanor if the ~~[person]~~ actor causes the catastrophe recklessly.

1537 ~~[(3)]~~ (4) In addition to any other penalty authorized by law, a court shall order ~~[any~~
1538 ~~person]~~ an actor convicted of any violation of this section to reimburse any federal, state, or
1539 local unit of government, or any private business, organization, individual, or entity for all
1540 expenses incurred in responding to the violation, unless the court states on the record the

1541 reasons why the reimbursement would be inappropriate.

1542 Section 29. Section **76-6-106** is amended to read:

1543 **76-6-106. Criminal mischief.**

1544 (1) (a) As used in this section, "critical infrastructure" includes:

1545 ~~[(a)]~~ (i) information and communication systems;

1546 ~~[(b)]~~ (ii) financial and banking systems;

1547 ~~[(c)]~~ (iii) any railroads, airlines, airports, airways, highways, bridges, waterways, fixed
1548 guideways, or other transportation systems intended for the transportation of persons or
1549 property;

1550 ~~[(d)]~~ (iv) any public utility service, including the power, energy, and water supply
1551 systems;

1552 ~~[(e)]~~ (v) sewage and water treatment systems;

1553 ~~[(f)]~~ (vi) health care facilities as listed in Section [26-21-2](#), and emergency fire, medical,
1554 and law enforcement response systems;

1555 ~~[(g)]~~ (vii) public health facilities and systems;

1556 ~~[(h)]~~ (viii) food distribution systems; and

1557 ~~[(i)]~~ (ix) other government operations and services.

1558 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-101](#) apply to this section.

1559 (2) ~~[A person]~~ An actor commits criminal mischief if the ~~[person]~~ actor:

1560 ~~[(a) under circumstances not amounting to arson, damages or destroys property with~~
1561 ~~the intention of defrauding an insurer;]~~

1562 ~~[(b)]~~ (a) intentionally and unlawfully tampers with the property of another and as a
1563 result:

1564 (i) recklessly endangers:

1565 (A) human life; or

1566 (B) human health or safety; or

1567 (ii) recklessly causes or threatens a substantial interruption or impairment of any

1568 critical infrastructure; or
 1569 ~~[(c) intentionally damages, defaces, or destroys the property of another; or]~~
 1570 ~~[(d)]~~ (b) recklessly or willfully shoots or propels a missile or other object at or against a
 1571 motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving
 1572 or standing.
 1573 ~~[(3)(a)(i) A violation of Subsection (2)(a) is a third degree felony.]~~
 1574 ~~[(ii)]~~ (3)(a) A violation of Subsection ~~[(2)(b)(i)(A)]~~ (2)(a)(i)(A) is a class A
 1575 misdemeanor.
 1576 ~~[(iii)]~~ (b) A violation of Subsection ~~[(2)(b)(i)(B)]~~ (2)(a)(i)(B) is a class B misdemeanor.
 1577 ~~[(iv)]~~ (c) A violation of Subsection ~~[(2)(b)(ii)]~~ (2)(a)(ii) is a second degree felony.
 1578 ~~[(b)]~~ (d) Any other violation of this section is a:
 1579 (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary
 1580 loss equal to or in excess of \$5,000 in value;
 1581 (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary
 1582 loss equal to or in excess of \$1,500 but is less than \$5,000 in value;
 1583 (iii) class A misdemeanor if the actor's conduct causes or is intended to cause
 1584 pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and
 1585 (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary
 1586 loss less than \$500 in value.
 1587 (4) In determining the value of damages under this section, or for computer crimes
 1588 under Section [76-6-703](#), the value of any item, computer, computer network, computer
 1589 property, computer services, software, or data includes the measurable value of the loss of use
 1590 of the items and the measurable cost to replace or restore the items.
 1591 (5) In addition to any other penalty authorized by law, a court shall order ~~[any person]~~
 1592 an actor convicted of any violation of this section to reimburse any federal, state, or local unit
 1593 of government, or any private business, organization, individual, or entity for all expenses
 1594 incurred in responding to a violation of Subsection ~~[(2)(b)(ii)]~~ (2)(a)(ii), unless the court states

1595 on the record the reasons why the reimbursement would be inappropriate.

1596 Section 30. Section **76-6-106.1** is enacted to read:

1597 **76-6-106.1. Property damage or destruction.**

1598 (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

1599 (2) An actor commits property damage or destruction if the actor under circumstances
1600 not amounting to arson or criminal mischief:

1601 (a) damages or destroys property with the intention of defrauding an insurer; or

1602 (b) intentionally damages, defaces, or destroys the property of another.

1603 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), a violation of Subsection (2)(a) is
1604 a third degree felony.

1605 (ii) A violation of Subsection (2)(a) is a second degree felony if the actor's conduct
1606 causes or is intended to cause pecuniary loss equal to or in excess of \$5,000.

1607 (b) A violation of Subsection (2)(b) is a:

1608 (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary
1609 loss equal to or in excess of \$5,000 in value;

1610 (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary
1611 loss equal to or in excess of \$1,500 but is less than \$5,000 in value;

1612 (iii) class A misdemeanor if the actor's conduct causes or is intended to cause
1613 pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and

1614 (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary
1615 loss less than \$500 in value.

1616 (4) In determining the value of damages under this section, or for computer crimes
1617 under Section 76-6-703, the value of any item, computer, computer network, computer
1618 property, computer services, software, or data includes the measurable value of the loss of use
1619 of the items and the measurable cost to replace or restore the items.

1620 Section 31. Section **76-6-107** is amended to read:

1621 **76-6-107. Defacement by graffiti defined -- Penalties -- Removal costs --**

1622 **Reimbursement liability -- Victim liability.**

1623 (1) (a) As used in this section~~[-]~~, "victim" means the person whose property is defaced
 1624 or damaged by the use of graffiti and who bears the expense for removal of the graffiti.

1625 (b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

1626 (2) An actor commits defacement by graffiti if the actor, without permission, defaces or
 1627 damages the property of another by graffiti.

1628 [~~(a) "Etching" means defacing, damaging, or destroying hard surfaces by means of a~~
 1629 ~~chemical action which uses any caustic cream, gel, liquid, or solution.]~~

1630 [~~(b) "Graffiti" means any form of unauthorized printing, writing, spraying, scratching,~~
 1631 ~~affixing, etching, or inscribing on the property of another regardless of the content or the nature~~
 1632 ~~of the material used in the commission of the act.]~~

1633 [~~(c) "Victim" means the person whose property is defaced by graffiti and who bears the~~
 1634 ~~expense for removal of the graffiti.]~~

1635 [~~(2) Except as provided in Section 76-6-107, graffiti is a:]~~

1636 (3) A violation of Subsection (2) is a:

1637 (a) second degree felony if the damage caused is in excess of \$5,000;

1638 (b) third degree felony if the damage caused is equal to or in excess of \$1,000 but less
 1639 than or equal to \$5,000;

1640 (c) class A misdemeanor if the damage caused is equal to or in excess of \$300 but less
 1641 than \$1,000; and

1642 (d) class B misdemeanor if the damage caused is less than \$300.

1643 [~~(3)~~] (4) Damages under Subsection [(2)] (3) include removal costs, repair costs, or
 1644 replacement costs, whichever is less.

1645 [~~(4)~~] (5) The court shall order an individual convicted under Subsection [(2)] (3) to pay
 1646 restitution to the victim in an amount equal to the costs incurred by the victim as a result of the
 1647 graffiti.

1648 [~~(5)~~] (6) An additional amount of \$1,000 in restitution shall be added to removal costs

1649 if the graffiti is positioned on an overpass or an underpass, requires that traffic be interfered
1650 with in order to remove it, or the entity responsible for the area in which the clean-up is to take
1651 place must provide assistance in order for the removal to take place safely.

1652 ~~[(6)]~~ (7) An individual who voluntarily, at the individual's own expense, and with the
1653 consent of the property owner, removes graffiti for which the individual is responsible may be
1654 credited for the removal costs against restitution ordered by a court.

1655 ~~[(7)]~~ (8) Before an authorized government agency may issue a citation or assess a fine
1656 to a victim for the victim's failure to remove graffiti from the victim's property, the agency
1657 shall:

- 1658 (a) provide written notice to the victim alerting the victim of the graffiti;
- 1659 (b) allow the victim one week after the day on which the agency provides written
1660 notice of the graffiti to remove the graffiti; and
- 1661 (c) provide the victim with a list of resources available to assist the victim with
1662 removal of the graffiti.

1663 ~~[(8)]~~ (9) (a) After receiving notification of graffiti under Subsection ~~[(7)(a)]~~ (8)(a), a
1664 victim who is unable to remove the graffiti due to physical or financial hardship may alert the
1665 agency that provided notice under Subsection ~~[(7)(a)]~~ (8)(a) of the hardship.

1666 (b) If an authorized government agency finds a victim has demonstrated that the victim
1667 would experience significant hardship in removing the graffiti, the agency:

- 1668 (i) may not issue a citation or assess a fee to the victim for failure to remove the
1669 graffiti; and
- 1670 (ii) shall provide, or hire an outside entity to provide, the assistance necessary to
1671 remove the graffiti from the victim's property.

1672 (c) An authorized government agency that provides, or hires an outside agency to
1673 provide, assistance under Subsection ~~[(8)(b)(ii)]~~ (9)(b)(ii), may request reimbursement from a
1674 restitution order, under Subsection ~~[(4)]~~ (5), against an individual who used graffiti to damage
1675 the property that the agency removed, or paid another to remove.

1676 Section 32. Section **76-6-107.5** is amended to read:

1677 **76-6-107.5. Defacing by graffiti on public lands.**

1678 (1) (a) As used in this section~~[-]~~, "public lands" means state or federally owned
1679 property that is held substantially in the property's natural state, including canyons, parks
1680 owned or managed by the state, national parks, land managed by the Bureau of Land
1681 Management, and other lands owned or maintained by a government entity for outdoor
1682 recreational use.

1683 (b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

1684 ~~[(a) "Etching" means defacing, damaging, or destroying a hard surface by using a~~
1685 ~~chemical, an abrasive object, a knife, or an engraving device.]~~

1686 ~~[(b) "Graffiti" means unauthorized printing, spraying, scratching, affixing, etching, or~~
1687 ~~inscribing on property owned by the state regardless of the content or the nature of the material~~
1688 ~~used in the commission of the act.]~~

1689 ~~[(c) "Public lands" means state or federally owned property that is held substantially in~~
1690 ~~its natural state, including canyons, parks owned or managed by the state, national parks, land~~
1691 ~~managed by the Bureau of Land Management, and other lands owned or maintained by a~~
1692 ~~government entity for outdoor recreational use.]~~

1693 (2) An ~~[individual is guilty of]~~ actor commits defacing by graffiti on public lands
1694 ~~[vandalism if the individual]~~ if the actor creates, or assists in creating, graffiti on any public
1695 lands or state-owned object permanently located on public lands.

1696 (3) ~~[An individual convicted under]~~ A violation of Subsection (2) is ~~[guilty of]~~ a class
1697 B misdemeanor.

1698 (4) If an ~~[individual]~~ actor is convicted of defacing by graffiti on public lands
1699 ~~[vandalism]~~, the court shall sentence the ~~[individual]~~ actor to a term of community service as
1700 follows:

1701 (a) for a first conviction, the court shall sentence the ~~[individual]~~ actor to 100 hours of
1702 community service, to be completed within 90 days after the day on which the court issues the

1703 order;

1704 (b) for a second conviction, the court shall sentence the [individual] actor to 200 hours
1705 of community service, to be completed within 180 days after the day on which the court issues
1706 the order; or

1707 (c) for a third or subsequent conviction, the court shall sentence the [individual] actor
1708 to 300 hours of community service, to be completed within 270 days after the day on which the
1709 court issues the order.

1710 (5) If an [individual] actor is enrolled in school or maintains full or part-time
1711 employment, the ordered community service may not be scheduled at a time the [individual]
1712 actor is scheduled to be in school or performing the individual's employment duties.

1713 (6) A sentence of community service described in Subjection (4) shall, to the greatest
1714 extent possible, be for the benefit of public lands.

1715 (7) If an [individual] actor is convicted of defacing by graffiti on public lands
1716 [vandalism], the court may impose a fine up to the full amount of the estimated cost to restore
1717 the damaged land, caused by the [individual] actor, to the land's original state.

1718 (8) An [individual] actor who voluntarily, at the [individual's] actor's own expense, and
1719 with the consent of the property owner, removes graffiti for which the [individual] actor is
1720 responsible shall be credited for costs ordered by the court under Subsection (7).

1721 Section 33. Section **76-6-108** is amended to read:

1722 **76-6-108. Damage to or interruption of a communication device -- Penalty.**

1723 (1) (a) As used in this section:

1724 [(a)] (i) "Communication device" means any device, including a telephone, cellular
1725 telephone, computer, or radio, which may be used in an attempt to summon police, fire,
1726 medical, or other emergency aid.

1727 [(b)] (ii) "Emergency aid" means aid or assistance, including law enforcement, fire, or
1728 medical services, commonly summoned by persons concerned with imminent or actual:

1729 [(i)] (A) jeopardy to any person's health or safety; or

1730 [~~(ii)~~] (B) damage to any person's property.

1731 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-101](#) apply to this section.

1732 (2) [~~A person is guilty of~~] An actor commits damage to or interruption of a
1733 communication device if the actor attempts to prohibit or interrupt, or prohibits or interrupts,
1734 another person's use of a communication device when the other person is attempting to
1735 summon emergency aid or has communicated a desire to summon emergency aid, and in the
1736 process the actor:

1737 (a) uses force, intimidation, or any other form of violence;

1738 (b) destroys, disables, or damages a communication device; or

1739 (c) commits any other act in an attempt to prohibit or interrupt the person's use of a
1740 communication device to summon emergency aid.

1741 (3) [~~Damage to or interruption of a communication device~~] A violation of Subsection
1742 (2) is a class B misdemeanor.

1743 Section 34. Section **76-6-111** is amended to read:

1744 **76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria --**
1745 **Seizure and disposition of property.**

1746 (1) (a) As used in this section:

1747 [~~(a)~~] (i) "Law enforcement officer" means the same as that term is defined in Section
1748 [53-13-103](#).

1749 [~~(b)~~] (ii) "Livestock" means a domestic animal or fur bearer raised or kept for profit or
1750 as an asset, including:

1751 [~~(i)~~] (A) cattle;

1752 [~~(ii)~~] (B) sheep;

1753 [~~(iii)~~] (C) goats;

1754 [~~(iv)~~] (D) swine;

1755 [~~(v)~~] (E) horses;

1756 [~~(vi)~~] (F) mules;

1757 ~~[(vii)]~~ (G) poultry;

1758 ~~[(viii)]~~ (H) domesticated elk as defined in Section 4-39-102; and

1759 ~~[(ix)]~~ (I) livestock guardian dogs.

1760 ~~[(e)]~~ (iii) "Livestock guardian dog" means a dog that is being used to live with and

1761 guard livestock, other than itself, from predators.

1762 (b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

1763 (2) Unless authorized by Section 4-25-201, 4-25-202, 4-25-401, 4-39-401, or 18-1-3,

1764 ~~[a person is guilty of]~~ an actor commits wanton destruction of livestock if ~~[that person]~~ the

1765 actor:

1766 (a) injures, physically alters, releases, or causes the death of livestock; and

1767 (b) does so:

1768 (i) intentionally or knowingly; and

1769 (ii) without the permission of the owner of the livestock.

1770 ~~[(3) For purposes of this section, a livestock guardian dog is presumed to belong to an~~

1771 ~~owner of the livestock with which the livestock guardian dog was living at the time of an~~

1772 ~~alleged violation of Subsection (2).]~~

1773 ~~[(4)]~~ (3) ~~[Wanton destruction of livestock]~~ A violation of Subsection (2) is [punishable

1774 as] a:

1775 (a) class B misdemeanor if the aggregate value of the livestock is \$250 or less;

1776 (b) class A misdemeanor if the aggregate value of the livestock is more than \$250, but

1777 does not exceed \$750;

1778 (c) third degree felony if the aggregate value of the livestock is more than \$750, but

1779 does not exceed \$5,000; and

1780 (d) second degree felony if the aggregate value of the livestock is more than \$5,000.

1781 (4) For purposes of this section, a livestock guardian dog is presumed to belong to an

1782 owner of the livestock with which the livestock guardian dog was living at the time of an

1783 alleged violation of Subsection (2).

1784 (5) When a court orders [~~a person~~ an actor] who is convicted of wanton destruction of
1785 livestock to pay restitution under Title 77, Chapter 38b, Crime Victims Restitution Act, the
1786 court shall consider the restitution guidelines in Subsection (6) when setting the amount of
1787 restitution under Section [77-38b-205](#).

1788 (6) The minimum restitution value for cattle and sheep is the sum of the following,
1789 unless the court states on the record why it finds the sum to be inappropriate:

1790 (a) the fair market value of the animal, using as a guide the market information
1791 obtained from the Department of Agriculture and Food created under Section [4-2-102](#); and

1792 (b) 10 years times the average annual value of offspring, for which average annual
1793 value is determined using data obtained from the National Agricultural Statistics Service within
1794 the United States Department of Agriculture, for the most recent 10-year period available.

1795 (7) A material, device, or vehicle used in violation of Subsection (2) is subject to
1796 forfeiture under the procedures and substantive protections established in Title 24, Forfeiture
1797 and Disposition of Property Act.

1798 (8) A peace officer may seize a material, device, or vehicle used in violation of
1799 Subsection (2):

1800 (a) upon notice and service of process issued by a court having jurisdiction over the
1801 property; or

1802 (b) without notice and service of process if:

1803 (i) the seizure is incident to an arrest under:

1804 (A) a search warrant; or

1805 (B) an inspection under an administrative inspection warrant;

1806 (ii) the material, device, or vehicle has been the subject of a prior judgment in favor of
1807 the state in a criminal injunction or forfeiture proceeding under this section; or

1808 (iii) the peace officer has probable cause to believe that the property has been used in
1809 violation of Subsection (2).

1810 (9) (a) A material, device, or vehicle seized under this section is not repleviable but is

1811 in custody of the law enforcement agency making the seizure, subject only to the orders and
1812 decrees of a court or official having jurisdiction.

1813 (b) A peace officer who seizes a material, device, or vehicle under this section may:

1814 (i) place the property under seal;

1815 (ii) remove the property to a place designated by the warrant under which it was seized;

1816 or

1817 (iii) take custody of the property and remove it to an appropriate location for

1818 disposition in accordance with law.

1819 Section 35. Section 76-6-112 is amended to read:

1820 **76-6-112. Agricultural operation interference -- Penalties.**

1821 (1) (a) As used in this section, "agricultural operation" means private property used for
1822 the production of livestock, poultry, livestock products, or poultry products.

1823 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-101](#) apply to this section.

1824 (2) ~~[A person is guilty of]~~ An actor commits agricultural operation interference if the
1825 ~~[person]~~ actor:

1826 (a) without consent from the owner of the agricultural operation, or the owner's agent,
1827 knowingly or intentionally records an image of, or sound from, the agricultural operation by
1828 leaving a recording device on the agricultural operation;

1829 (b) obtains access to an agricultural operation under false pretenses;

1830 (c) (i) applies for employment at an agricultural operation with the intent to record an
1831 image of, or sound from, the agricultural operation;

1832 (ii) knows, at the time that the ~~[person]~~ actor accepts employment at the agricultural
1833 operation, that the owner of the agricultural operation prohibits the employee from recording an
1834 image of, or sound from, the agricultural operation; and

1835 (iii) while employed at, and while present on, the agricultural operation, records an
1836 image of, or sound from, the agricultural operation; or

1837 (d) without consent from the owner of the operation or the owner's agent, knowingly or

1838 intentionally records an image of, or sound from, an agricultural operation while the person is
 1839 committing criminal trespass, as described in Section 76-6-206, on the agricultural operation.

1840 (3) ~~(a)~~ A ~~[person who commits agricultural operation interference described in]~~
 1841 ~~violation of~~ Subsection (2)(a) is ~~[guilty of]~~ a class A misdemeanor.

1842 ~~[(4)]~~ (b) ~~[A person who commits agricultural operation interference described in]~~ A
 1843 ~~violation of~~ Subsection (2)(b), (c), or (d) is ~~[guilty of]~~ a class B misdemeanor.

1844 Section 36. Section 76-6-202 is amended to read:

1845 **76-6-202. Burglary.**

1846 (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

1847 (2) An actor ~~[is guilty of]~~ commits burglary ~~[who]~~ if the actor enters or remains
 1848 unlawfully in a building or any portion of a building with intent to commit:

1849 (a) a felony;

1850 (b) theft;

1851 (c) an assault on any person;

1852 (d) lewdness, ~~[a]~~ in violation of Section 76-9-702;

1853 (e) sexual battery, ~~[a]~~ in violation of Section 76-9-702.1;

1854 (f) lewdness involving a child, in violation of Section 76-9-702.5; or

1855 (g) voyeurism ~~[under]~~, in violation of Section 76-9-702.7.

1856 ~~[(2)]~~ (3) (a) ~~[Burglary]~~ Except as provided in Subsection (3)(b), a violation of
 1857 Subsection (2) is a third degree felony ~~[unless it was committed in a dwelling, in which event it~~
 1858 ~~is a second degree felony].~~

1859 (b) A violation of Subsection (2) is a second degree felony if the violation is committed
 1860 in a dwelling.

1861 ~~[(3)]~~ (4) A violation of this section is a separate offense from any of the offenses listed
 1862 in Subsections ~~[(1)(a) through (g)]~~ (2)(a) through (g), and which may be committed by the
 1863 actor while in the building.

1864 Section 37. Section 76-6-203 is amended to read:

1865 **76-6-203. Aggravated burglary.**

1866 (1) ~~[A person is guilty of]~~ Terms defined in Sections 76-1-101.5 and 76-6-201 apply to
1867 this section.

1868 (2) An actor commits aggravated burglary if in attempting, committing, or fleeing from
1869 a burglary the actor or another participant in the crime:

1870 (a) causes bodily injury to any person who is not a participant in the crime;

1871 (b) uses or threatens the immediate use of a dangerous weapon against any person who
1872 is not a participant in the crime; or

1873 (c) possesses or attempts to use any explosive or dangerous weapon.

1874 ~~[(2)]~~ (3) ~~[Aggravated burglary]~~ A violation of Subsection (2) is a first degree felony.

1875 ~~[(3) As used in this section, "dangerous weapon" has the same definition as under~~
1876 ~~Section 76-1-101.5.]~~

1877 Section 38. Section **76-6-204** is amended to read:

1878 **76-6-204. Burglary of a vehicle -- Charge of other offense.**

1879 (1) ~~[Any person who]~~ Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this
1880 section.

1881 (2) An actor commits burglary of a vehicle if the actor unlawfully enters any vehicle
1882 with intent to commit a felony or theft ~~[is guilty of a burglary of a vehicle].~~

1883 ~~[(2)]~~ (3) ~~[Burglary of a vehicle]~~ A violation of Subsection (2) is a class A
1884 misdemeanor.

1885 ~~[(3)]~~ (4) A charge against ~~[any person]~~ an actor for a violation of Subsection ~~[(1) shall]~~
1886 (2) does not preclude a charge for a commission of any other offense.

1887 Section 39. Section **76-6-204.5** is amended to read:

1888 **76-6-204.5. Burglary of a railroad car -- Charge of other offenses.**

1889 (1) ~~[Any person]~~ Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this
1890 section.

1891 (2) An actor commits burglary of a railroad car ~~[when the person]~~ if the actor breaks

1892 the lock or seal on any railroad car, with the intent to commit a felony or theft.

1893 ~~[(2)]~~ (3) ~~[Burglary of a railroad car]~~ A violation of Subsection (2) is a third degree
1894 felony.

1895 ~~[(3)]~~ (4) Charging a person for a violation of Subsection ~~[(1)]~~ (2) does not preclude
1896 charging the person for any other offense.

1897 Section 40. Section **76-6-205** is amended to read:

1898 **76-6-205. Manufacture or possession of instrument for burglary or theft.**

1899 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-201](#) apply to this section.

1900 (2) ~~[Any person who]~~ An actor commits manufacture or possession of an instrument
1901 for burglary or theft if the actor manufactures or possesses any instrument, tool, device, article,
1902 or other thing adapted, designed, or commonly used in advancing or facilitating the
1903 commission of any offense under circumstances manifesting an intent to use or knowledge that
1904 [some] another person intends to use the same in the commission of a burglary or theft [is
1905 guilty of].

1906 (3) A violation of Subsection (2) is a class B misdemeanor.

1907 Section 41. Section **76-6-206** is amended to read:

1908 **76-6-206. Criminal trespass.**

1909 (1) (a) As used in this section:

1910 ~~[(a)]~~ (i) "Enter" means intrusion of the entire body or the entire unmanned aircraft.

1911 (ii) "Graffiti" means the same as that term is defined in Section [76-6-101](#).

1912 ~~[(b)]~~ (iii) "Remain unlawfully," as that term relates to an unmanned aircraft, means
1913 remaining on or over private property when:

1914 ~~[(i)]~~ (A) the private property or any portion of the private property is not open to the
1915 public; and

1916 ~~[(ii)]~~ (B) the person operating the unmanned aircraft is not otherwise authorized to fly
1917 the unmanned aircraft over the private property or any portion of the private property.

1918 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-201](#) apply to this section.

1919 (2) ~~[A person is guilty of]~~ An actor commits criminal trespass if, under circumstances
1920 not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation
1921 of Section 76-10-2402 regarding commercial obstruction:

1922 (a) the ~~[person]~~ actor enters or remains unlawfully on or causes an unmanned aircraft
1923 to enter and remain unlawfully over property and:

1924 (i) intends to cause annoyance or injury to any person or damage to any property,
1925 including the use of graffiti ~~[as defined in Section 76-6-107]~~;

1926 (ii) intends to commit any crime, other than theft or a felony; or

1927 (iii) is reckless as to whether the ~~[person's]~~ actor's or unmanned aircraft's presence will
1928 cause fear for the safety of another;

1929 (b) knowing the ~~[person's]~~ actor's or unmanned aircraft's entry or presence is unlawful,
1930 the ~~[person]~~ actor enters or remains on or causes an unmanned aircraft to enter or remain
1931 unlawfully over property to which notice against entering is given by:

1932 (i) personal communication to the ~~[person]~~ actor by the owner or someone with
1933 apparent authority to act for the owner;

1934 (ii) fencing or other enclosure obviously designed to exclude intruders; or

1935 (iii) posting of signs reasonably likely to come to the attention of intruders; or

1936 (c) the ~~[person]~~ actor enters a condominium unit in violation of Subsection 57-8-7(8).

1937 (3) (a) ~~[A]~~ Except as provided in Subsection (3)(b), a violation of Subsection (2)(a) or
1938 (b) is a class B misdemeanor ~~[unless the violation is committed in a dwelling, in which event~~
1939 ~~the violation is a class A misdemeanor]~~.

1940 (b) If a violation of Subsection (2)(a) or (b) is committed in a dwelling, the violation is
1941 a class A misdemeanor.

1942 ~~[(b)]~~ (c) A violation of Subsection (2)(c) is an infraction.

1943 (4) It is a defense to prosecution under this section that:

1944 (a) the property was at the time open to the public; and

1945 (b) the ~~[actor]~~ defendant complied with all lawful conditions imposed on access to or

1946 remaining on the property.

1947 (5) In addition to an order for restitution under Section [77-38b-205](#), ~~[a person]~~ an actor
 1948 who commits a violation of Subsection (2) may also be liable for:

1949 (a) statutory damages in the amount of three times the value of damages resulting from
 1950 the violation of Subsection (2) or \$500, whichever is greater; and

1951 (b) reasonable attorney fees not to exceed \$250, and court costs.

1952 (6) Civil damages under Subsection (5) may be collected in a separate action by the
 1953 property owner or the owner's assignee.

1954 Section 42. Section **76-6-206.1** is amended to read:

1955 **76-6-206.1. Criminal trespass of abandoned or inactive mines.**

1956 (1) (a) For purposes of this section:

1957 ~~[(a)]~~ (i) "Abandoned or inactive mine" means an underground mine which is no longer
 1958 open for access or no longer under excavation and has been clearly marked as closed or
 1959 protected from entry.

1960 (ii) "Burglary" means an offense described in Section [76-6-202](#), [76-6-203](#), or [76-6-204](#).

1961 ~~[(b)]~~ (iii) "Enter" means intrusion of the entire body.

1962 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-201](#) apply to this section.

1963 (2) ~~[A person is guilty of]~~ An actor commits criminal trespass of an abandoned or
 1964 inactive mine if, under circumstances not amounting to burglary ~~[as defined in Section~~
 1965 [76-6-202](#), [76-6-203](#), or [76-6-204](#)], the actor:

1966 (a) ~~[the person]~~ intentionally enters and remains unlawfully in the underground
 1967 workings of an abandoned or inactive mine; or

1968 (b) intentionally and without authority removes, destroys, or tampers with any warning
 1969 sign, covering, fencing, or other method of protection from entry placed on, around, or over any
 1970 mine shaft, mine portal, or other abandoned or inactive mining excavation property.

1971 (3) (a) A violation of Subsection (2)(a) is a class B misdemeanor.

1972 ~~[(4)]~~ (b) A violation of Subsection (2)(b) is a class A misdemeanor.

1973 Section 43. Section **76-6-206.2** is amended to read:

1974 **76-6-206.2. Criminal trespass on state park lands.**

1975 (1) (a) As used in this section:

1976 ~~[(a)]~~ (i) "Authorization" means specific written permission by, or contractual

1977 agreement with, the Division of State Parks.

1978 ~~[(b)]~~ (ii) "Criminal trespass" means the elements of the crime of criminal trespass, as

1979 set forth in Section [76-6-206](#).

1980 ~~[(c)]~~ (iii) "Division" means the Division of State Parks created in Section [79-4-201](#).

1981 ~~[(d)]~~ (iv) "State park lands" means all lands administered by the division.

1982 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-201](#) apply to this section.

1983 (2) ~~[A person is guilty of]~~ An actor commits criminal trespass on state park lands and

1984 is liable for the civil damages prescribed in Subsection (5) if, under circumstances not

1985 amounting to a greater offense, and without authorization, the ~~[person]~~ actor:

1986 (a) constructs improvements or structures on state park lands;

1987 (b) uses or occupies state park lands for more than 30 days after the cancellation or

1988 expiration of authorization;

1989 (c) knowingly or intentionally uses state park lands for commercial gain;

1990 (d) intentionally or knowingly grazes livestock on state park lands, except as provided

1991 in Section [72-3-112](#); or

1992 (e) remains, after being ordered to leave by ~~[someone]~~ a person with actual authority to

1993 act for the division, or by a law enforcement officer.

1994 (3) A violation of Subsection (2) is a class B misdemeanor.

1995 ~~[(3)]~~ (4) ~~[A person is not guilty of]~~ A person does not commit criminal trespass if that

1996 person enters onto state park lands:

1997 (a) without first paying the required fee; and

1998 (b) for the sole purpose of pursuing recreational activity.

1999 ~~[(4) A violation of Subsection (2) is a class B misdemeanor.]~~

2000 (5) (a) In addition to an order for restitution under Section 77-38b-205, ~~a person~~ an
2001 actor who commits any act described in Subsection (2) may also be liable for civil damages in
2002 the amount of three times the value of:

2003 ~~(a)~~ (i) damages resulting from a violation of Subsection (2);

2004 ~~(b)~~ (ii) the water, mineral, vegetation, improvement, or structure on state park lands
2005 that is removed, destroyed, used, or consumed without authorization;

2006 ~~(c)~~ (iii) the historical, prehistorical, archaeological, or paleontological resource on
2007 state park lands that is removed, destroyed, used, or consumed without authorization; or

2008 ~~(d)~~ (iv) the consideration which would have been charged by the division for
2009 unauthorized use of the land and resources during the period of trespass.

2010 ~~(6)~~ (b) Civil damages awarded under Subsection (5)(a):

2011 (i) may be collected in a separate action by the division~~;~~ and

2012 (ii) shall be deposited ~~in~~ into the State ~~Parks~~ Park Fees Restricted Account as
2013 established in Section 79-4-402.

2014 Section 44. Section 76-6-206.3 is amended to read:

2015 **76-6-206.3. Criminal trespass on agricultural land or range land.**

2016 (1) (a) As used in this section:

2017 ~~(a)~~ (i) "Agricultural or range land" and "land" mean land as defined under
2018 Subsections ~~(1)(d) and (e)~~ (1)(a)(iv) and (v).

2019 ~~(b)~~ (ii) "Authorization" means specific written permission by, or contractual
2020 agreement with, the owner or manager of the property.

2021 ~~(c)~~ (iii) "Criminal trespass" means the elements of the crime of criminal trespass
2022 under Section 76-6-206.

2023 ~~(d)~~ (iv) "Land in agricultural use" has the same meaning as in Section 59-2-502.

2024 ~~(e)~~ (v) (A) "Range land" means privately owned land that is not fenced or divided
2025 into lots and that is generally unimproved. ~~[This land]~~

2026 (B) "Range land" includes land used for livestock.

2027 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-201](#) apply to this section.

2028 (2) ~~[A person is guilty of the class B misdemeanor criminal offense of]~~ An actor

2029 commits criminal trespass on agricultural or range land and is liable for the civil damages

2030 under Subsection (5) if, under circumstances not amounting to a greater offense, and without

2031 authorization or a right under state law, the ~~[person]~~ actor enters or remains on agricultural or

2032 range land regarding which notice prohibiting entry is given by:

2033 (a) personal communication to the ~~[person]~~ actor by the owner of the land, an

2034 employee of the owner, or a person with apparent authority to act for the owner;

2035 (b) fencing or other form of enclosure a reasonable person would recognize as intended

2036 to exclude intruders; or

2037 (c) posted signs or markers that would reasonably be expected to be seen by persons in

2038 the area of the borders of the land.

2039 ~~[(3) A person is guilty of the class B misdemeanor criminal offense of cutting,~~

2040 ~~destroying, or rendering ineffective the fencing of agricultural or range land if the person~~

2041 ~~willfully cuts, destroys, or renders ineffective any fencing as described under Subsection~~

2042 ~~(2)(b).]~~

2043 ~~[(4)]~~ (3) A violation of Subsection (2) is a class B misdemeanor.

2044 (4) In addition to an order for restitution under Section [77-38b-205](#), ~~[a person]~~ an actor

2045 who commits any violation of Subsection (2) ~~[or (3)]~~ may also be liable for:

2046 (a) statutory damages in the amount of three times the value of damages resulting from

2047 the violation of Subsection (2) or \$500, whichever is greater; ~~[and]~~

2048 (b) reasonable attorney fees not to exceed \$250~~[,]~~; and

2049 (c) court costs.

2050 (5) Civil damages under Subsection (4) may be collected in a separate action by the

2051 owner of the agricultural or range land or the owner's assignee.

2052 Section 45. Section **76-6-206.4** is amended to read:

2053 **76-6-206.4. Criminal trespass by long-term guest to a residence.**

2054 (1) (a) As used in this section:

2055 (i) "Burglary" means an offense described in Section [76-6-202](#), [76-6-203](#), or [76-6-204](#).

2056 ~~[(a)]~~ (ii) "Long-term guest" means an individual who is not a tenant but who is given

2057 express or implied permission by the person who is the primary occupant of the residence or

2058 someone with apparent authority to act for the primary occupant to enter a portion of a

2059 residence or temporarily occupy a portion of a residence:

2060 ~~[(i)]~~ (A) for a period of time longer than 48 hours; and

2061 ~~[(ii)]~~ (B) without providing the owner or primary occupant of the residence

2062 compensation or entering into an agreement that the individual provide labor in lieu of

2063 providing the owner or primary occupant compensation for occupying the residence.

2064 ~~[(b)]~~ (iii) "Residence" means an improvement to real property used or occupied as a

2065 primary or secondary dwelling.

2066 ~~[(c)]~~ (iv) "Tenant" means a person who has the right to occupy a residence under a

2067 rental agreement or lease, or has a tenancy by operation of law.

2068 ~~[(2) A long-term guest is guilty of criminal trespass of a residence if, under~~

2069 ~~circumstances not amounting to burglary as defined in Section [76-6-202](#), [76-6-203](#), or~~

2070 ~~[76-6-204](#), the long-term guest]~~

2071 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-201](#) apply to this section.

2072 (2) An actor commits criminal trespass of a residence if the actor:

2073 (a) is a long-term guest; and

2074 (b) in circumstances not amounting to burglary, remains in a residence after the

2075 ~~[long-term guest]~~ actor receives notice against remaining in the residence by personal

2076 ~~[long-term guest]~~ actor by the person who is the primary occupant of the

2077 residence or someone with apparent authority to act for the primary occupant.

2078 (3) A violation of Subsection (2) is a class B misdemeanor.

2079 (4) Before a law enforcement officer escorts an ~~[individual]~~ actor from a residence for

2080 a violation of ~~[this section]~~ Subsection (2), the law enforcement officer shall provide the

2081 ~~[individual]~~ actor a reasonable time for the ~~[individual]~~ actor to collect the ~~[individual's]~~ actor's
2082 personal belongings.

2083 Section 46. Section **76-6-206.5** is enacted to read:

2084 **76-6-206.5. Cutting, destroying, or rendering ineffective fencing of agricultural or**
2085 **range land.**

2086 (1) Terms defined in Sections 76-1-101.5, 76-6-201, and 76-6-206.3 apply to this
2087 section.

2088 (2) An actor commits cutting, destroying, or rendering ineffective the fencing of
2089 agricultural or range land if the person willfully cuts, destroys, or renders ineffective any
2090 fencing or other form of enclosure a reasonable person would recognize as intended to exclude
2091 intruders.

2092 (3) A violation of Subsection (2) is a class B misdemeanor.

2093 (4) In addition to an order for restitution under Section 77-38b-205, an actor who
2094 commits a violation of Subsection (2) may also be liable for:

2095 (a) statutory damages in the amount of \$500;

2096 (b) reasonable attorney fees not to exceed \$250; and

2097 (c) court costs.

2098 (5) Civil damages under Subsection (4) may be collected in a separate action by the
2099 owner of the agricultural or range land or the owner's assignee.

2100 Section 47. Section **76-6-301** is amended to read:

2101 **76-6-301. Robbery.**

2102 (1) (a) ~~[A person]~~ As used in this section, an act is considered to be "in the course of
2103 committing a theft or unauthorized possession of property" if the act occurs:

2104 (i) in the course of an attempt to commit theft or unauthorized possession of property;

2105 (ii) in the commission of theft or unauthorized possession of property; or

2106 (iii) in the immediate flight after the attempt or commission.

2107 (b) Terms defined in Section 76-1-101.5 apply to this section.

2108 (2) An actor commits robbery if the actor:

2109 (a) ~~[the person]~~ unlawfully and intentionally takes or attempts to take personal property

2110 in the possession of ~~[another]~~ an individual from ~~[his]~~ the individual's person, or immediate

2111 presence, against ~~[his]~~ the individual's will, by means of force or fear, and with a purpose or

2112 intent to deprive the ~~[person]~~ individual permanently or temporarily of the personal property;

2113 or

2114 (b) ~~[the person]~~ intentionally or knowingly uses force or fear of immediate force

2115 against ~~[another]~~ an individual in the course of committing a theft or ~~[wrongful appropriation]~~

2116 unauthorized possession of property.

2117 ~~[(2) An act is considered to be "in the course of committing a theft or wrongful~~

2118 ~~appropriation" if it occurs:]~~

2119 ~~[(a) in the course of an attempt to commit theft or wrongful appropriation;]~~

2120 ~~[(b) in the commission of theft or wrongful appropriation; or]~~

2121 ~~[(c) in the immediate flight after the attempt or commission.]~~

2122 (3) ~~[Robbery is a felony of the]~~ A violation of Subsection (2) is a second degree felony.

2123 Section 48. Section **76-6-302** is amended to read:

2124 **76-6-302. Aggravated robbery.**

2125 (1) (a) ~~[A person]~~ As used in this section, an act is considered to be "in the course of

2126 committing a robbery" if the act occurs in an attempt to commit, during the commission of, or

2127 in the immediate flight after the attempt or commission of a robbery.

2128 (b) Terms defined in Section 76-1-101.5 apply to this section.

2129 (2) An actor commits aggravated robbery if in the course of committing a robbery, ~~[he]~~

2130 the actor:

2131 (a) uses or threatens to use a dangerous weapon ~~[as defined in Section 76-1-101.5];~~

2132 (b) causes serious bodily injury ~~[upon another]~~ to another individual; or

2133 (c) takes or attempts to take an operable motor vehicle.

2134 (3) A violation of Subsection (2) is a first degree felony.

2135 [~~(2) Aggravated robbery is a first degree felony.~~]

2136 [~~(3) For the purposes of this part, an act shall be considered to be "in the course of~~
2137 ~~committing a robbery" if it occurs in an attempt to commit, during the commission of, or in the~~
2138 ~~immediate flight after the attempt or commission of a robbery.~~]

2139 Section 49. Section **76-6-403** is amended to read:

2140 **76-6-403. Theft -- Evidence to support accusation.**

2141 Conduct denominated theft in this part constitutes a single offense embracing the
2142 separate offenses such as those heretofore known as larceny, larceny by trick, larceny by
2143 bailees, embezzlement, false pretense, extortion, blackmail, receiving stolen property. An
2144 accusation of theft may be supported by evidence that it was committed in any manner
2145 specified in [~~Sections 76-6-404 through 76-6-410~~] this part, subject to the power of the court to
2146 ensure a fair trial by granting a continuance or other appropriate relief where the conduct of the
2147 defense would be prejudiced by lack of fair notice or by surprise.

2148 Section 50. Section **76-6-404** is amended to read:

2149 **76-6-404. Theft -- Elements.**

2150 (1) Terms defined in Section 76-1-101.5 apply to this section.

2151 (2) [~~A person~~] ~~An actor~~ commits theft if [~~he~~] the actor obtains or exercises
2152 unauthorized control over [~~the~~] another person's property [~~of another~~] with a purpose to deprive
2153 [~~him thereof~~] the person of the person's property.

2154 (3) A violation of Subsection (2) is:

2155 (a) a second degree felony if the:

2156 (i) value of the property is or exceeds \$5,000;

2157 (ii) property stolen is a firearm or an operable motor vehicle; or

2158 (iii) property is stolen from the person of another;

2159 (b) a third degree felony if:

2160 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

2161 (ii) the property is a catalytic converter as defined under Section [76-6-1402](#);

2162 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
2163 convicted of any of the following offenses, if each prior offense was committed within 10 years
2164 before the date of the current conviction or the date of the offense upon which the current
2165 conviction is based and at least one of those convictions is for a class A misdemeanor:
2166 (A) any theft, any robbery, or any burglary with intent to commit theft;
2167 (B) any offense under Part 5, Fraud; or
2168 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);
2169 (iv) (A) the value of property is or exceeds \$500 but is less than \$1,500;
2170 (B) the theft occurs on a property where the offender has committed any theft within
2171 the past five years; and
2172 (C) the offender has received written notice from the merchant prohibiting the offender
2173 from entering the property pursuant to Subsection [78B-3-108\(4\)](#); or
2174 (v) the actor has been previously convicted of a felony violation of any of the offenses
2175 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
2176 within 10 years before the date of the current conviction or the date of the offense upon which
2177 the current conviction is based;
2178 (c) a class A misdemeanor if:
2179 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
2180 (ii) (A) the value of property is less than \$500;
2181 (B) the theft occurs on a property where the offender has committed any theft within
2182 the past five years; and
2183 (C) the offender has received written notice from the merchant prohibiting the offender
2184 from entering the property pursuant to Subsection [78B-3-108\(4\)](#); or
2185 (iii) the actor has been twice before convicted of any of the offenses listed in
2186 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
2187 years before the date of the current conviction or the date of the offense upon which the current
2188 conviction is based; or

2189 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
2190 theft is not an offense under Subsection (3)(c).

2191 Section 51. Section **76-6-404.5** is amended to read:

2192 **76-6-404.5. Unauthorized possession of property.**

2193 (1) ~~[A person]~~ Terms defined in Section 76-1-101.5 apply to this section.

2194 (2) An actor commits [wrongful appropriation] unauthorized possession of property if
2195 [he] the actor obtains or exercises unauthorized control over [the] another person's property [of
2196 another], without the consent of the property's owner or legal custodian, and with the intent to
2197 temporarily appropriate, possess, or use the property or to temporarily deprive the property's
2198 owner or legal custodian of possession of the property.

2199 ~~[(2) The consent of the owner or legal custodian of the property to its control by the~~
2200 ~~actor is not presumed or implied because of the owner's or legal custodian's consent on a~~
2201 ~~previous occasion to the control of the property by any person.]~~

2202 ~~[(3) Wrongful appropriation is punishable one degree lower than theft, as provided in~~
2203 ~~Section 76-6-412, so that a violation which would have been:]~~

2204 ~~[(a) a second degree felony under Section 76-6-412 if it had been theft is a third degree~~
2205 ~~felony if it is wrongful appropriation;]~~

2206 ~~[(b) a third degree felony under Section 76-6-412 if it had been theft is a class A~~
2207 ~~misdemeanor if it is wrongful appropriation;]~~

2208 ~~[(c) a class A misdemeanor under Section 76-6-412 if it had been theft is a class B~~
2209 ~~misdemeanor if it is wrongful appropriation; and]~~

2210 ~~[(d) a class B misdemeanor under Section 76-6-412 if it had been theft is a class C~~
2211 ~~misdemeanor if it is wrongful appropriation.]~~

2212 ~~[(4)]~~ (3) ~~[Wrongful appropriation]~~ A violation of Subsection (2) is:

2213 (a) a third degree felony if:

2214 (i) the value of the property is or exceeds \$5,000;

2215 (ii) the property is a firearm or an operable motor vehicle; or

2216 (iii) the property is taken from the person of another;
2217 (b) a class A misdemeanor if:
2218 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
2219 (ii) the property is a catalytic converter as defined under Section [76-6-1402](#);
2220 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
2221 convicted of any of the following offenses, if each prior offense was committed within 10 years
2222 before the date of the current conviction or the date of the offense upon which the current
2223 conviction is based and at least one of those convictions is for a class A misdemeanor:
2224 (A) any theft, any robbery, or any burglary with intent to commit theft;
2225 (B) any offense under Part 5, Fraud; or
2226 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);
2227 (iv) (A) the value of property is or exceeds \$500 but is less than \$1,500;
2228 (B) the unauthorized possession of property occurs on a property where the offender
2229 has committed any theft within the past five years; and
2230 (C) the offender has received written notice from the merchant prohibiting the offender
2231 from entering the property pursuant to Subsection [78B-3-108\(4\)](#); or
2232 (v) the actor has been previously convicted of a felony violation of any of the offenses
2233 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
2234 within 10 years before the date of the current conviction or the date of the offense upon which
2235 the current conviction is based;
2236 (c) a class B misdemeanor if:
2237 (i) the value of the property is or exceeds \$500 but is less than \$1,500;
2238 (ii) (A) the value of property is less than \$500;
2239 (B) the unauthorized possession of property occurs on a property where the offender
2240 has committed any theft within the past five years; and
2241 (C) the offender has received written notice from the merchant prohibiting the offender
2242 from entering the property pursuant to Subsection [78B-3-108\(4\)](#); or

2243 (iii) the actor has been twice before convicted of any of the offenses listed in
2244 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
2245 years before the date of the current conviction or the date of the offense upon which the current
2246 conviction is based; or

2247 (d) a class C misdemeanor if the value of the property is less than \$500 and the
2248 unauthorized possession of property is not an offense under Subsection (3)(c).

2249 (4) Unauthorized possession of property is a lesser included offense of the offense of
2250 theft under Section 76-6-404.

2251 (5) The consent of the owner or legal custodian of the property to the property's control
2252 by the actor is not presumed or implied because of the owner's or legal custodian's consent on a
2253 previous occasion to the control of the property by any person.

2254 Section 52. Section 76-6-404.7 is amended to read:

2255 **76-6-404.7. Theft of motor vehicle fuel.**

2256 (1) (a) As used in this section, "motor vehicle fuel" means any combustible gas, liquid,
2257 matter, or substance that is used in an internal combustion engine for the generation of power.

2258 (b) Terms defined in Section 76-1-101.5 apply to this section.

2259 (2) ~~[A person is guilty of]~~ An actor commits theft of motor vehicle fuel ~~[who]~~ if the
2260 actor:

2261 (a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for
2262 retail sale when motor fuel has been dispensed into:

2263 (i) the fuel tank of the motor vehicle; or

2264 (ii) any other container that is then removed from the premises by means of the motor
2265 vehicle; and

2266 (b) commits the act under Subsection (2)(a) with the intent to deprive the owner or
2267 operator of the premises of the motor vehicle fuel without making full payment for the fuel.

2268 (3) A violation of Subsection (2) is:

2269 (a) a second degree felony if the value of the motor vehicle fuel is or exceeds \$5,000;

2270 (b) a third degree felony if:
2271 (i) the value of the motor vehicle fuel is or exceeds \$1,500 but is less than \$5,000; or
2272 (ii) the value of the motor vehicle fuel is or exceeds \$500 and the actor has been twice
2273 before convicted of any of the following offenses, if each prior offense was committed within
2274 10 years before the date of the current conviction or the date of the offense upon which the
2275 current conviction is based and at least one of those convictions is for a class A misdemeanor:
2276 (A) any theft, any robbery, or any burglary with intent to commit theft;
2277 (B) any offense under Part 5, Fraud; or
2278 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);
2279 (iii) (A) the value of the motor vehicle fuel is or exceeds \$500 but is less than \$1,500;
2280 (B) the theft occurs on a property where the offender has committed any theft within
2281 the past five years; and
2282 (C) the offender has received written notice from the merchant prohibiting the offender
2283 from entering the property pursuant to Subsection [78B-3-108\(4\)](#); or
2284 (iv) the actor has been previously convicted of a felony violation of any of the offenses
2285 listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed
2286 within 10 years before the date of the current conviction or the date of the offense upon which
2287 the current conviction is based;
2288 (c) a class A misdemeanor if:
2289 (i) the value of the motor vehicle fuel is or exceeds \$500 but is less than \$1,500;
2290 (ii) (A) the value of the motor vehicle fuel is less than \$500;
2291 (B) the theft occurs on a property where the offender has committed any theft within
2292 the past five years; and
2293 (C) the offender has received written notice from the merchant prohibiting the offender
2294 from entering the property pursuant to Subsection [78B-3-108\(4\)](#); or
2295 (iii) the actor has been twice before convicted of any of the offenses listed in
2296 Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10

2297 years before the date of the current conviction or the date of the offense upon which the current
2298 conviction is based; or

2299 (d) a class B misdemeanor if the value of the motor vehicle fuel is less than \$500 and
2300 the theft is not an offense under Subsection (3)(c).

2301 ~~[(3)]~~ (4) (a) In addition to the penalties ~~[for theft under Section 76-6-412]~~ described in
2302 Subsection (3), the sentencing court may order the suspension of the driver license of [a
2303 person] an actor convicted of theft of motor vehicle fuel.

2304 (b) The suspension described in Subsection (4)(a) may not be for more than 90 days as
2305 provided in Section 53-3-220.

2306 Section 53. Section **76-6-405** is amended to read:

2307 **76-6-405. Theft by deception.**

2308 (1) (a) As used in this section, "puffing" means an exaggerated commendation of wares
2309 or worth in a communication addressed to an individual, group, or the public.

2310 (b) Terms defined in Section 76-1-101.5 apply to this section.

2311 (2) (a) ~~[A person]~~ An actor commits theft by deception if the ~~[person]~~ actor obtains or
2312 exercises control over property of another person:

2313 (i) by deception; and

2314 (ii) with a purpose to deprive the other person of property.

2315 (b) The deception described in Subsection (2)(a)(i) and the deprivation described in
2316 Subsection (2)(a)(ii) may occur at separate times.

2317 (3) A violation of Subsection (2) is:

2318 (a) a second degree felony if the:

2319 (i) value of the property is or exceeds \$5,000; or

2320 (ii) property stolen is a firearm or an operable motor vehicle;

2321 (b) a third degree felony if:

2322 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

2323 (ii) the property is a catalytic converter as defined under Section 76-6-1402;

2324 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
2325 convicted of any of the following offenses, if each prior offense was committed within 10 years
2326 before the date of the current conviction or the date of the offense upon which the current
2327 conviction is based and at least one of those convictions is for a class A misdemeanor:

2328 (A) any theft, any robbery, or any burglary with intent to commit theft;
2329 (B) any offense under Part 5, Fraud; or
2330 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);
2331 (iv) (A) the value of property is or exceeds \$500 but is less than \$1,500;
2332 (B) the theft occurs on a property where the offender has committed any theft within
2333 the past five years; and
2334 (C) the offender has received written notice from the merchant prohibiting the offender
2335 from entering the property pursuant to Subsection 78B-3-108(4); or
2336 (v) the actor has been previously convicted of a felony violation of any of the offenses
2337 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
2338 within 10 years before the date of the current conviction or the date of the offense upon which
2339 the current conviction is based;

2340 (c) a class A misdemeanor if:
2341 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
2342 (ii) (A) the value of property is less than \$500;
2343 (B) the theft occurs on a property where the offender has committed any theft within
2344 the past five years; and
2345 (C) the offender has received written notice from the merchant prohibiting the offender
2346 from entering the property pursuant to Subsection 78B-3-108(4); or
2347 (iii) the actor has been twice before convicted of any of the offenses listed in
2348 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
2349 years before the date of the current conviction or the date of the offense upon which the current
2350 conviction is based; or

2351 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
2352 theft is not an offense under Subsection (3)(c).

2353 ~~[(3)]~~ (4) Theft by deception does not occur when there is only:

2354 (a) falsity as to matters having no pecuniary significance; or

2355 (b) puffing by statements unlikely to deceive an ordinary person in the group
2356 addressed.

2357 Section 54. Section ~~76-6-406~~ is amended to read:

2358 **76-6-406. Theft by extortion.**

2359 ~~[(1) An actor is guilty of theft if the actor obtains or exercises control over the property~~
2360 ~~of another person by extortion and with a purpose to deprive the person of the person's~~
2361 ~~property.]~~

2362 ~~[(2)]~~ (1) (a) As used in this section, extortion occurs when an actor threatens to:

2363 ~~[(a)]~~ (i) cause physical harm in the future to the person threatened, ~~[or]~~ to any other
2364 person, or to property at any time;

2365 ~~[(b)]~~ (ii) subject the person threatened or any other person to physical confinement or
2366 restraint;

2367 ~~[(c)]~~ (iii) engage in other conduct constituting a crime;

2368 ~~[(d)]~~ (iv) accuse any person of a crime or expose any person to hatred, contempt, or
2369 ridicule;

2370 ~~[(e)]~~ (v) reveal any information sought to be concealed by the person threatened;

2371 ~~[(f)]~~ (vi) testify ~~[or]~~, provide information, or withhold testimony or information with
2372 respect to a person's legal claim or defense;

2373 ~~[(g)]~~ (vii) take action as an official against anyone or anything, or withhold official
2374 action, or cause such action or withholding;

2375 ~~[(h)]~~ (viii) bring about or continue a strike, boycott, or other similar collective action to
2376 obtain property that is not demanded or received for the benefit of the group that the actor
2377 purports to represent; or

2378 [(†)] (ix) do any other act which would not in itself substantially benefit the actor but
2379 which would harm substantially any other person with respect to that person's health, safety,
2380 business, calling, career, financial condition, reputation, or personal relationships.

2381 (b) Terms defined in Section 76-1-101.5 apply to this section.

2382 (2) An actor commits theft by extortion if the actor obtains or exercises control over
2383 the property of another person by extortion and with a purpose to deprive the person of the
2384 person's property.

2385 (3) A violation of Subsection (2) is:

2386 (a) a second degree felony if the:

2387 (i) value of the property is or exceeds \$5,000;

2388 (ii) property stolen is a firearm or an operable motor vehicle; or

2389 (iii) property is stolen from the person of another;

2390 (b) a third degree felony if:

2391 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

2392 (ii) the property is a catalytic converter as defined under Section 76-6-1402;

2393 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
2394 convicted of any of the following offenses, if each prior offense was committed within 10 years
2395 before the date of the current conviction or the date of the offense upon which the current
2396 conviction is based and at least one of those convictions is for a class A misdemeanor:

2397 (A) any theft, any robbery, or any burglary with intent to commit theft;

2398 (B) any offense under Part 5, Fraud; or

2399 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

2400 (iv) (A) the value of property is or exceeds \$500 but is less than \$1,500;

2401 (B) the theft occurs on a property where the offender has committed any theft within
2402 the past five years; and

2403 (C) the offender has received written notice from the merchant prohibiting the offender
2404 from entering the property pursuant to Subsection 78B-3-108(4); or

2405 (v) the actor has been previously convicted of a felony violation of any of the offenses
2406 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
2407 within 10 years before the date of the current conviction or the date of the offense upon which
2408 the current conviction is based;

2409 (c) a class A misdemeanor if:

2410 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;

2411 (ii) (A) the value of property is less than \$500;

2412 (B) the theft occurs on a property where the offender has committed any theft within
2413 the past five years; and

2414 (C) the offender has received written notice from the merchant prohibiting the offender
2415 from entering the property pursuant to Subsection 78B-3-108(4); or

2416 (iii) the actor has been twice before convicted of any of the offenses listed in
2417 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
2418 years before the date of the current conviction or the date of the offense upon which the current
2419 conviction is based; or

2420 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
2421 theft is not an offense under Subsection (3)(c).

2422 ~~[(3)]~~ (4) (a) A person who is adversely impacted by the conduct prohibited in
2423 Subsection ~~[(1)]~~ (2) may bring a civil action for equitable relief and damages.

2424 (b) In accordance with Section 78B-2-305, a person who brings an action under
2425 Subsection ~~[(3)(a)]~~ (4)(a) shall commence the action within three years after the day on which
2426 the cause of action arises.

2427 Section 55. Section 76-6-407 is amended to read:

2428 **76-6-407. Theft of lost, mislaid, or mistakenly delivered property.**

2429 ~~[A person commits theft when:]~~

2430 (1) ~~[He]~~ Terms defined in Section 76-1-101.5 apply to this section.

2431 (2) An actor commits theft of lost, mislaid, or mistakenly delivered property if the

2432 actor:

2433 (a) obtains another person's property [~~of another which he~~] and knows the property to
 2434 have been lost or mislaid, or to have been delivered under a mistake as to the identity of the
 2435 recipient or as to the nature or amount of the property, without taking reasonable measures to
 2436 return [~~it~~] the property to the owner; and

2437 [~~(2)~~] (b) [~~He~~] has the purpose to deprive the owner of the property when [~~he~~] the actor
 2438 obtains the property or at any time [~~prior to~~] before taking the measures [~~designated in~~
 2439 paragraph (1)] described in Subsection (2)(a).

2440 (3) A violation of Subsection (2) is:

2441 (a) a second degree felony if the:

2442 (i) value of the property is or exceeds \$5,000;

2443 (ii) property stolen is a firearm or an operable motor vehicle; or

2444 (iii) property is stolen from the person of another;

2445 (b) a third degree felony if:

2446 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

2447 (ii) the property is a catalytic converter as defined under Section [76-6-1402](#);

2448 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
 2449 convicted of any of the following offenses, if each prior offense was committed within 10 years
 2450 before the date of the current conviction or the date of the offense upon which the current
 2451 conviction is based and at least one of those convictions is for a class A misdemeanor:

2452 (A) any theft, any robbery, or any burglary with intent to commit theft;

2453 (B) any offense under Part 5, Fraud; or

2454 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

2455 (iv) (A) the value of property is or exceeds \$500 but is less than \$1,500;

2456 (B) the theft occurs on a property where the offender has committed any theft within
 2457 the past five years; and

2458 (C) the offender has received written notice from the merchant prohibiting the offender

2459 from entering the property pursuant to Subsection 78B-3-108(4); or
2460 (v) the actor has been previously convicted of a felony violation of any of the offenses
2461 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
2462 within 10 years before the date of the current conviction or the date of the offense upon which
2463 the current conviction is based;
2464 (c) a class A misdemeanor if:
2465 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
2466 (ii) (A) the value of property is less than \$500;
2467 (B) the theft occurs on a property where the offender has committed any theft within
2468 the past five years; and
2469 (C) the offender has received written notice from the merchant prohibiting the offender
2470 from entering the property pursuant to Subsection 78B-3-108(4); or
2471 (iii) the actor has been twice before convicted of any of the offenses listed in
2472 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
2473 years before the date of the current conviction or the date of the offense upon which the current
2474 conviction is based; or
2475 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
2476 theft is not an offense under Subsection (3)(c).
2477 Section 56. Section **76-6-408** is amended to read:
2478 **76-6-408. Theft by receiving stolen property -- Duties of pawnbrokers,**
2479 **secondhand businesses, coin dealers, and catalytic converter purchasers.**
2480 (1) (a) As used in this section:
2481 ~~(a)~~ (i) "Catalytic converter purchaser" means the same as that term is defined in
2482 Section **13-32a-102**.
2483 ~~(b)~~ (ii) "Coin dealer" means the same as that term is defined in Section **13-32a-102**.
2484 ~~(c)~~ (iii) "Pawnbroker" means the same as that term is defined in Section **13-32a-102**.
2485 ~~(d)~~ (iv) "Receives" means acquiring possession, control, title, or lending on the

2486 security of the property.

2487 ~~[(e)]~~ (v) "Scrap metal processor" means the same as that term is defined in Section
 2488 [76-6-1402](#).

2489 ~~[(f)]~~ (vi) "Secondhand actor" means:

2490 ~~[(i)]~~ (A) a pawnbroker;

2491 ~~[(ii)]~~ (B) a person who has or operates a business dealing in or collecting used or
 2492 secondhand merchandise or personal property; or

2493 ~~[(iii)]~~ (C) an agent, employee, or representative of a pawnbroker or person who buys,
 2494 receives, or obtains property.

2495 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

2496 (2) ~~[A person]~~ An actor commits theft by receiving stolen property if the [person] actor
 2497 receives, retains, or disposes of the property of another knowing that the property is stolen, or
 2498 believing that the property is probably stolen, or who conceals, sells, withholds, or aids in
 2499 concealing, selling, or withholding the property from the owner, knowing or believing the
 2500 property to be stolen, intending to deprive the owner of the property.

2501 (3) A violation of Subsection (2) is:

2502 (a) a second degree felony if:

2503 (i) the value of the property is or exceeds \$5,000; or

2504 (ii) the property is a firearm or an operable motor vehicle;

2505 (b) a third degree felony if:

2506 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

2507 (ii) the property is a catalytic converter as defined under Section [76-6-1402](#);

2508 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
 2509 convicted of any of the following offenses, if each prior offense was committed within 10 years

2510 before the date of the current conviction or the date of the offense upon which the current

2511 conviction is based and at least one of those convictions is for a class A misdemeanor:

2512 (A) any theft, any robbery, or any burglary with intent to commit theft;

2513 (B) any offense under Part 5, Fraud; or
2514 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
2515 (iv) the actor has been previously convicted of a felony violation of any of the offenses
2516 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
2517 within 10 years before the date of the current conviction or the date of the offense upon which
2518 the current conviction is based;

2519 (c) a class A misdemeanor if:
2520 (i) the value of the property is or exceeds \$500 but is less than \$1,500; or
2521 (ii) the actor has been twice before convicted of any of the offenses listed in
2522 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
2523 years before the date of the current conviction or the date of the offense upon which the current
2524 conviction is based; or

2525 (d) a class B misdemeanor if the value of the property is less than \$500 and the theft is
2526 not an offense under Subsection (3)(c).

2527 ~~[(3)]~~ (4) Except as provided in Subsection ~~[(4)]~~ (5), the knowledge or belief required
2528 under Subsection (2) is presumed in the case of an actor who:

2529 (a) is found in possession or control of other property stolen on a separate occasion; or
2530 (b) has received other stolen property within the year preceding the receiving offense
2531 charged.

2532 ~~[(4)]~~ (5) (a) The knowledge or belief required under Subsection (2) may only be
2533 presumed of a secondhand actor if the secondhand actor does not substantially comply with the
2534 material requirements of Section 13-32a-104.

2535 (b) The knowledge or belief required under Subsection (2) may only be presumed of a
2536 coin dealer or an employee of a coin dealer if the coin dealer or the employee of the coin dealer
2537 does not substantially comply with the requirements of Section 13-32a-104.5.

2538 (c) The knowledge or belief required under Subsection (2) may only be presumed of a
2539 catalytic converter purchaser if the catalytic converter purchaser does not substantially comply

2540 with the material requirements of Section [13-32a-104.7](#).

2541 ~~[(5)]~~ (6) Unless acting as a catalytic converter purchaser, Subsection ~~[(4)(c)]~~ (5)(c)
 2542 does not apply to a scrap metal processor.

2543 ~~[(6)]~~ (7) This section does not preclude the admission of evidence in accordance with
 2544 the Utah Rules of Evidence.

2545 (8) An actor who violates Subsection (2) is civilly liable for three times the amount of
 2546 actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney
 2547 fees.

2548 Section 57. Section **76-6-409** is amended to read:

2549 **76-6-409. Theft of service.**

2550 (1) (a) ~~[A person]~~ As used in this section, "service" includes:

2551 (i) labor, professional service, a public utility or transportation service, restaurant,
 2552 hotel, motel, tourist cabin, rooming house, and like accommodations, the supplying of
 2553 equipment, a tool, a vehicle, or a trailer for temporary use, telegraph service, steam, admission
 2554 to entertainment, an exhibition, a sporting event, or other event for which a charge is made;

2555 (ii) gas, electricity, water, sewer, or cable television service, only if the service is
 2556 obtained by threat, force, or a form of deception not described in Section [76-6-409.3](#); and

2557 (iii) telephone service, only if the service is obtained by threat, force, or a form of
 2558 deception not described in Section [76-6-409.6](#), [76-6-409.7](#), [76-6-409.8](#), or [76-6-409.9](#).

2559 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

2560 (2) An actor commits theft ~~[if he]~~ of service if:

2561 (a) the actor, by deception, threat, force, or another means designed to avoid due
 2562 payment, obtains ~~[services which he]~~ a service that the actor knows ~~[are]~~ is available only for

2563 compensation ~~[by deception, threat, force, or any other means designed to avoid the due~~
 2564 payment for them.]; or

2565 (b) the actor:

2566 (i) has control over the disposition of another person's service; and

2567 (ii) (A) diverts the other person's service to the benefit of the actor, knowing that the
2568 actor is not entitled to the service; or

2569 (B) diverts the other person's service to the benefit of a third person, knowing that the
2570 third person is not entitled to the service.

2571 (3) A violation of Subsection (2) is:

2572 (a) a second degree felony if the value of the service is or exceeds \$5,000;

2573 (b) a third degree felony if:

2574 (i) the value of the service is or exceeds \$1,500 but is less than \$5,000;

2575 (ii) the value of the service is or exceeds \$500 and the actor has been twice before
2576 convicted of any of the following offenses, if each prior offense was committed within 10 years
2577 before the date of the current conviction or the date of the offense upon which the current
2578 conviction is based and at least one of those convictions is for a class A misdemeanor:

2579 (A) any theft, any robbery, or any burglary with intent to commit theft;

2580 (B) any offense under Part 5, Fraud; or

2581 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);

2582 (iii) (A) the value of the service is or exceeds \$500 but is less than \$1,500;

2583 (B) the theft occurs on a property where the offender has committed any theft within
2584 the past five years; and

2585 (C) the offender has received written notice from the merchant prohibiting the offender
2586 from entering the property pursuant to Subsection [78B-3-108\(4\)](#); or

2587 (iv) the actor has been previously convicted of a felony violation of any of the offenses
2588 listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed
2589 within 10 years before the date of the current conviction or the date of the offense upon which
2590 the current conviction is based;

2591 (c) a class A misdemeanor if:

2592 (i) the value of the service stolen is or exceeds \$500 but is less than \$1,500;

2593 (ii) (A) the value of the service is less than \$500;

2594 (B) the theft occurs on a property where the offender has committed any theft within
2595 the past five years; and

2596 (C) the offender has received written notice from the merchant prohibiting the offender
2597 from entering the property pursuant to Subsection 78B-3-108(4); or

2598 (iii) the actor has been twice before convicted of any of the offenses listed in
2599 Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10
2600 years before the date of the current conviction or the date of the offense upon which the current
2601 conviction is based; or

2602 (d) a class B misdemeanor if the value of the service is less than \$500 and the theft is
2603 not an offense under Subsection (3)(c).

2604 ~~[(2) A person commits theft if, having control over the disposition of services of~~
2605 ~~another, to which he knows he is not entitled, he diverts the services to his own benefit or to~~
2606 ~~the benefit of another who he knows is not entitled to them.]~~

2607 ~~[(3) In this section "services" includes, but is not limited to, labor, professional service,~~
2608 ~~public utility and transportation services, restaurant, hotel, motel, tourist cabin, rooming house,~~
2609 ~~and like accommodations, the supplying of equipment, tools, vehicles, or trailers for temporary~~
2610 ~~use, telephone or telegraph service, steam, admission to entertainment, exhibitions, sporting~~
2611 ~~events, or other events for which a charge is made.]~~

2612 ~~[(4) Under this section "services" includes gas, electricity, water, sewer, or cable~~
2613 ~~television services, only if the services are obtained by threat, force, or a form of deception not~~
2614 ~~described in Section 76-6-409.3.]~~

2615 ~~[(5) Under this section "services" includes telephone services only if the services are~~
2616 ~~obtained by threat, force, or a form of deception not described in Sections 76-6-409.5 through~~
2617 ~~76-6-409.9.]~~

2618 Section 58. Section 76-6-409.1 is amended to read:

2619 **76-6-409.1. Unlawful device for theft of service -- Seizure and destruction -- Civil**
2620 **actions for damages.**

2621 ~~[(1) A person may not knowingly:]~~
2622 (1) Terms defined in Section 76-1-101.5 apply to this section.
2623 (2) An actor commits unlawful device for theft of service if the actor:
2624 (a) ~~[make or possess any]~~ makes or possesses an instrument, apparatus, equipment, or
2625 device for the use of, or for the purpose of, committing or attempting to commit theft under
2626 Section 76-6-409 or 76-6-409.3; or
2627 (b) ~~[sell, offer to sell, advertise, give, transport, or otherwise transfer to another any~~
2628 ~~information;]~~ sells, offers to sell, advertises, gives, transports, or otherwise transfers to another
2629 person:
2630 (i) an instrument, apparatus, equipment, or device~~;~~₂; or
2631 (ii) any information, plan, or instruction for obtaining, making, or assembling ~~[the~~
2632 ~~same]~~ an instrument, apparatus, equipment, or device, with intent that ~~[it]~~ the instrument,
2633 apparatus, equipment, or device be used, or caused to be used, to commit or attempt to commit
2634 theft under Section 76-6-409 or 76-6-409.3.
2635 ~~[(2) (a) Any information, instrument, apparatus, equipment, or device, or information,~~
2636 ~~plan, or instruction referred to in Subsection (1) may be seized pursuant to a court order, lawful~~
2637 ~~search and seizure, lawful arrest, or other lawful process.]~~
2638 ~~[(b) Upon the conviction of any person for a violation of any provision of this section,~~
2639 ~~any information, instrument, apparatus, equipment, device, plan, or instruction shall be~~
2640 ~~destroyed as contraband by the sheriff of the county in which the person was convicted.]~~
2641 (3) (a) ~~[A person who violates any provision]~~ A violation of Subsection ~~[(1) or]~~ (2) is
2642 ~~[guilty of]~~ a class A misdemeanor.
2643 (b) Any instrument, apparatus, equipment, device, information, plan, or instruction
2644 referred to in Subsection (2) may be seized pursuant to a court order, lawful search and seizure,
2645 lawful arrest, or other lawful process.
2646 (c) Upon the conviction of an actor for a violation of this section, the sheriff of the
2647 county in which the actor was convicted shall destroy as contraband any instrument, apparatus,

2648 equipment, device, information, plan, or instruction.

2649 (4) [~~Criminal prosecutions~~] A criminal prosecution under this section [~~do~~] does not
2650 affect any person's right of civil action for redress for damages suffered as a result of [~~any~~] a
2651 violation of this section.

2652 Section 59. Section ~~76-6-409.3~~ is amended to read:

2653 **76-6-409.3. Theft of utility or cable television services -- Restitution -- Civil action**
2654 **for damages.**

2655 (1) (a) As used in this section:

2656 [~~(a)~~] (i) "Cable television service" means [~~any~~] an audio, video, or data service
2657 provided for payment by a cable television company over [~~its~~] the cable company's cable
2658 system facilities [~~for payment~~], but does not include the use of a satellite dish or antenna.

2659 (ii) "Occupant" includes a person, including the owner, who occupies the whole or part
2660 of a building, whether alone or with others.

2661 [~~(b)~~] (iii) "Owner" includes [~~any part-owner~~] a partial owner, joint owner, tenant in
2662 common, joint tenant, or tenant by the entirety of the whole or a part of [~~any~~] a building and the
2663 property on which [~~it~~] the building is located.

2664 [~~(c)~~] (iv) "Person" means [~~any~~] an individual, firm, partnership, corporation, company,
2665 association, or other legal entity.

2666 [~~(d)~~] (v) "Tenant [~~or occupant~~]" includes [~~any~~] a person, including the owner, who
2667 occupies the whole or part of any building, whether alone or with others.

2668 [~~(e)~~] (vi) "Utility" means any public utility, [~~municipally-owned~~] municipally owned
2669 utility, or cooperative utility [~~which~~] that provides electricity, gas, water, or sewer, or any
2670 combination of [~~them~~] electricity, gas, water, or sewer, for sale to consumers.

2671 (b) Terms defined in Section 76-1-101.5 apply to this section.

2672 (2) [~~A person is guilty of~~] An actor commits theft of a utility or cable television service
2673 if [~~the person commits any prohibited acts which make~~], with intent to avoid due payment to
2674 the utility or cable television company, the actor makes gas, electricity, water, sewer, or cable

2675 television available to a tenant or occupant, including ~~[himself, with intent to avoid due~~
2676 ~~payment to the utility or cable television company. Any person aiding and abetting in these~~
2677 ~~prohibited acts is a party to the offense under Section 76-2-202. Prohibited acts include:]~~ to the
2678 actor, by committing any of the following acts:

2679 (a) connecting ~~[any]~~ a tube, pipe, wire, cable, or other instrument with any meter,
2680 device, or other instrument used for conducting gas, electricity, water, sewer, or cable
2681 television in a manner as permits the use of the gas, electricity, water, sewer, or cable television
2682 without ~~[its]~~ the gas, electricity, water, sewer, or cable television passing through a meter or
2683 other instrument recording the usage for billing;

2684 (b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or
2685 other instrument used for measuring quantities of gas, electricity, water, or sewer service, or
2686 making or maintaining any modification or alteration to any device installed with the
2687 authorization of a cable television company for the purpose of intercepting or receiving any
2688 program or other service carried by the company ~~[which the person]~~ that the actor is not
2689 authorized by the company to receive;

2690 (c) reconnecting a gas, electricity, water, sewer, or cable television ~~[connections]~~
2691 connection or otherwise restoring service when one or more of those utilities or cable service
2692 ~~[have]~~ has been lawfully disconnected or turned off by the provider of the utility or cable
2693 service;

2694 (d) intentionally breaking, defacing, or causing to be broken or defaced ~~[any]~~ a seal,
2695 locking device, or other part of a metering device for recording usage of gas, electricity, water,
2696 or sewer service, or a security system for the recording device, or a cable television control
2697 device;

2698 (e) removing a metering device designed to measure quantities of gas, electricity,
2699 water, or sewer service;

2700 (f) transferring from one location to another location a metering device for measuring
2701 quantities of public utility services of gas, electricity, water, or sewer service;

2702 (g) changing the indicated consumption, jamming the measuring device, bypassing the
2703 meter or measuring device with a jumper so that it does not indicate use or registers use
2704 incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer service from
2705 the utility without ~~[their]~~ the gas, electricity, water, or sewer service passing through a metering
2706 device for measuring quantities of consumption for billing purposes;

2707 (h) using a metering device belonging to the utility that has not been assigned to the
2708 location and installed by the utility;

2709 (i) fabricating or using a device to pick or otherwise tamper with the locks used to deter
2710 utility service diversion, meter tampering, meter thefts, and unauthorized cable television
2711 service;

2712 (j) assisting or instructing ~~[any]~~ a person in obtaining or attempting to obtain any cable
2713 television service without payment of all lawful compensation to the company providing the
2714 service;

2715 (k) making or maintaining a connection or connections, whether physical, electrical,
2716 mechanical, acoustical, or by other means, with ~~[any cables, wires, components, or other~~
2717 ~~devices]~~ a cable, wire, component, or other device used for the distribution of cable television
2718 services without authority from the cable television company; or

2719 (l) possessing without authority any device or printed circuit board designed in whole
2720 or in part to receive any cable television programming or ~~[services]~~ service offered for sale
2721 over a cable television system, unless the device or printed circuit board includes the use of a
2722 satellite dish or antenna, with the intent that the device or printed circuit be used for the
2723 reception of the cable television company's services without payment. ~~[For purposes of this~~
2724 ~~subsection, device or printed circuit board does not include the use of a satellite dish or~~
2725 ~~antenna.]~~

2726 (3) (a) A violation of Subsection (2), if the violation is a theft of a utility service, is:

2727 (i) a second degree felony if:

2728 (A) the value of the gas, electricity, water, or sewer service is or exceeds \$5,000; or

2729 (B) if the actor previously has been convicted of a violation of this section;
2730 (ii) a third degree felony if the value of the gas, electricity, water, or sewer service is or
2731 exceeds \$1,500 but is not more than \$5,000;
2732 (iii) a class A misdemeanor if the value of the gas, electricity, water, or sewer service is
2733 or exceeds \$500 but is not more than \$1,500; or
2734 (iv) a class B misdemeanor if the value of the gas, electricity, water, or sewer service is
2735 less than \$500.
2736 (b) A violation of Subsection (2), if the violation is a theft of a cable television service,
2737 is:
2738 (i) a second degree felony if the value of the service is or exceeds \$5,000;
2739 (ii) a third degree felony if:
2740 (A) the value of the service is or exceeds \$1,500 but is less than \$5,000;
2741 (B) the value of the service is or exceeds \$500 and the actor has been twice before
2742 convicted of any of the following offenses, if each prior offense was committed within 10 years
2743 before the date of the current conviction or the date of the offense upon which the current
2744 conviction is based and at least one of those convictions is for a class A misdemeanor:
2745 (I) any theft, any robbery, or any burglary with intent to commit theft;
2746 (II) any offense under Part 5, Fraud; or
2747 (III) any attempt to commit any offense under Subsection (3)(b)(ii)(B)(I) or (II); or
2748 (C) the actor has been previously convicted of a felony violation of any of the offenses
2749 listed in Subsections (3)(b)(ii)(B)(I) through (3)(b)(ii)(B)(III), if the prior offense was
2750 committed within 10 years before the date of the current conviction or the date of the offense
2751 upon which the current conviction is based;
2752 (iii) a class A misdemeanor if:
2753 (A) the value of the service stolen is or exceeds \$500 but is less than \$1,500; or
2754 (B) the actor has been twice before convicted of any of the offenses listed in
2755 Subsections (3)(b)(ii)(B)(I) through (3)(b)(ii)(B)(III), if each prior offense was committed

2756 within 10 years before the date of the current conviction or the date of the offense upon which
2757 the current conviction is based; or

2758 (iv) a class B misdemeanor if the value of the service is less than \$500 and the theft is
2759 not an offense under Subsection (3)(b)(iii).

2760 (c) (i) An actor who violates this section shall make restitution to the utility or cable
2761 television company for the value of the gas, electricity, water, sewer, or cable television service
2762 consumed in violation of this section plus all reasonable expenses and costs incurred on
2763 account of the violation of this section.

2764 (ii) Reasonable expenses and costs include expenses and costs for investigation,
2765 disconnection, reconnection, service calls, employee time, and equipment use.

2766 ~~[(3)]~~ (4) (a) The presence on property in the possession of ~~[a person of any device]~~ an
2767 actor of a device or alteration ~~[which]~~ that permits the diversion or use of utility or cable
2768 service to avoid the registration of the use by or on a meter installed by the utility or to
2769 otherwise avoid the recording of use of the service for payment or otherwise avoid payment
2770 gives rise to an inference that the ~~[person]~~ actor in possession of the property installed the
2771 device or caused the alteration if:

2772 ~~[(a)]~~ (i) the presence of the device or alteration can be attributed only to a deliberate act
2773 in furtherance of an intent to avoid payment for utility or cable television service; and

2774 ~~[(b)]~~ (ii) the ~~[person]~~ actor charged has received the direct benefit of the reduction of
2775 the cost of the utility or cable television service.

2776 ~~[(4) A person who violates this section is guilty of the offense of theft of utility or~~
2777 ~~cable television service:]~~

2778 ~~[(a) In the case of theft of utility services, if the value of the gas, electricity, water, or~~
2779 ~~sewer service:]~~

2780 ~~[(i) is less than \$500, the offense is a class B misdemeanor;]~~

2781 ~~[(ii) is or exceeds \$500 but is not more than \$1,500, the offense is a class A~~
2782 ~~misdemeanor;]~~

2783 ~~[(iii) is or exceeds \$1,500 but is not more than \$5,000, the offense is a third degree~~
2784 ~~felony; and]~~

2785 ~~[(iv) is or exceeds \$5,000 or if the offender has previously been convicted of a~~
2786 ~~violation of this section, the offense is a second degree felony.]~~

2787 ~~[(b) In the case of theft of cable television services, the penalties are prescribed in~~
2788 ~~Section [76-6-412](#).]~~

2789 ~~[(5) A person who violates this section shall make restitution to the utility or cable~~
2790 ~~television company for the value of the gas, electricity, water, sewer, or cable television service~~
2791 ~~consumed in violation of this section plus all reasonable expenses and costs incurred on~~
2792 ~~account of the violation of this section. Reasonable expenses and costs include expenses and~~
2793 ~~costs for investigation, disconnection, reconnection, service calls, employee time, and~~
2794 ~~equipment use.]~~

2795 (b) An actor who aids or abets in a prohibited act is a party to the offense under Section
2796 [76-2-202](#).

2797 ~~[(6)]~~ (5) (a) Criminal prosecution under this section does not affect the right of a utility
2798 or cable television company to bring a civil action for redress for damages suffered as a result
2799 of the commission of any of the acts prohibited by this section.

2800 ~~[(7)]~~ (b) This section does not abridge or alter any other right, action, or remedy
2801 otherwise available to a utility or cable television company.

2802 Section 60. Section ~~76-6-409.5~~ is amended to read:

2803 **~~76-6-409.5. Definitions.~~**

2804 As used in this section and Sections ~~76-6-409.6~~ ~~[through]~~, [76-6-409.7](#), [76-6-409.8](#),
2805 [76-6-409.9](#), and [76-6-409.10](#):

2806 (1) "Access device" means any telecommunication device including the telephone
2807 calling card number, electronic serial number, account number, mobile identification number,
2808 or personal identification number that can be used to obtain telephone service.

2809 (2) "Clone cellular telephone" or "counterfeit cellular telephone" means a cellular

2810 telephone whose electronic serial number has been altered from the electronic serial number
2811 that was programmed in the telephone by the manufacturer by someone other than the
2812 manufacturer.

2813 (3) "Cloning paraphernalia" means materials that, when possessed in combination, are
2814 capable of the creation of a cloned cellular telephone. These materials include scanners to
2815 intercept the electronic serial number and mobile identification number, cellular telephones,
2816 cables, EPROM chips, EPROM burners, software for programming the cloned telephone with
2817 a false electronic serial number and mobile identification number combination, a computer
2818 containing such software, and lists of electronic serial number and mobile identification
2819 number combinations.

2820 (4) "Electronic serial number" means the unique number that:

2821 (a) was programmed into a cellular telephone by its manufacturer;

2822 (b) is transmitted by the cellular telephone; and

2823 (c) is used by cellular telephone providers to validate radio transmissions to the system
2824 as having been made by an authorized device.

2825 (5) "EPROM" or "Erasable programmable read-only memory" means an integrated
2826 circuit memory that can be programmed from an external source and erased, for
2827 reprogramming, by exposure to ultraviolet light.

2828 (6) "Intercept" means to electronically capture, record, reveal, or otherwise access, the
2829 signals emitted or received during the operation of a cellular telephone without the consent of
2830 the sender or receiver, by means of any instrument, device or equipment.

2831 (7) "Manufacture of an unlawful telecommunication device" means to produce or
2832 assemble an unlawful telecommunication device, or to modify, alter, program, or reprogram a
2833 telecommunication device to be capable of acquiring or facilitating the acquisition of
2834 telecommunication service without the consent of the telecommunication service provider.

2835 (8) "Mobile identification number" means the cellular telephone number assigned to
2836 the cellular telephone by the cellular telephone carrier.

2837 (9) "Possess" means to have physical possession or otherwise to exercise control over
2838 tangible property.

2839 (10) "Sell" means to offer to, agree to offer to, or to sell, exchange, give, or dispose of
2840 an unlawful telecommunications device to another.

2841 (11) "Telecommunication device" means:

2842 (a) any type of instrument, device, machine, or equipment which is capable of
2843 transmitting or receiving telephonic, electronic, or radio communications; or

2844 (b) any part of an instrument, device, machine, or equipment, or other computer circuit,
2845 computer chip, electronic mechanism, or other component, which is capable of facilitating the
2846 transmission or reception of telephonic or electronic communications within the radio spectrum
2847 allocated to cellular radio telephony.

2848 (12) "Telecommunication service" includes any service provided for a charge or
2849 compensation to facilitate the origination, transmission, emission, or reception of signs,
2850 signals, writings, images, and sounds or intelligence of any nature by telephone, including
2851 cellular telephones, wire, radio, television optical or other electromagnetic system.

2852 (13) "Telecommunication service provider" means any person or entity providing
2853 telecommunication service including a cellular telephone or paging company or other person or
2854 entity which, for a fee, supplies the facility, cell site, mobile telephone switching office, or
2855 other equipment or telecommunication service.

2856 (14) "Unlawful telecommunication device" means any telecommunication device that
2857 is capable of, or has been altered, modified, programmed, or reprogrammed, alone or in
2858 conjunction with another access device, so as to be capable of, acquiring or facilitating the
2859 acquisition of a telecommunication service without the consent of the telecommunication
2860 service provider. Unlawful devices include tumbler phones, counterfeit phones, tumbler
2861 microchips, counterfeit microchips, and other instruments capable of disguising their identity
2862 or location or of gaining access to a communications system operated by a telecommunication
2863 service provider.

2864 Section 61. Section **76-6-409.6** is amended to read:

2865 **76-6-409.6. Use of telecommunication device to avoid lawful charge for service.**

2866 (1) ~~[Any person who uses]~~ Terms defined in Sections [76-1-101.5](#) and [76-6-409.5](#) apply
2867 to this section.

2868 (2) An actor commits use of a telecommunication device to avoid lawful charge for
2869 service if the actor uses a telecommunication device;

2870 (a) with the intent to avoid the payment of [any] a lawful charge for telecommunication
2871 service; or

2872 (b) with the knowledge that [it] the use of the telecommunication device was to avoid
2873 the payment of [any] a lawful charge for telecommunication service [is guilty of].

2874 (3) (a) A violation of Subsection (2) is:

2875 ~~[(a)]~~ (i) a class B misdemeanor, if the value of the telecommunication service is less
2876 than \$300 or cannot be ascertained;

2877 ~~[(b)]~~ (ii) a class A misdemeanor, if the value of the telecommunication service charge
2878 is or exceeds \$300 but is not more than \$1,000;

2879 ~~[(c)]~~ (iii) a third degree felony, if the value of the telecommunication service is or
2880 exceeds \$1,000 but is not more than \$5,000; or

2881 ~~[(d)]~~ (iv) a second degree felony, if:

2882 ~~[(i)]~~ (A) the value of the telecommunication service is or exceeds \$5,000; [or]

2883 ~~[(ii)]~~ (B) the cloned cellular telephone was used to facilitate the commission of a
2884 felony[-]; or

2885 (C) the actor previously has been convicted of a violation of this section.

2886 (b) An actor who violates this section is subject to the restitution and civil action
2887 provisions described in Section [76-6-409.10](#).

2888 ~~[(2) Any person who has been convicted previously of an offense under this section is~~
2889 ~~guilty of a second degree felony upon a second conviction and any subsequent conviction.]~~

2890 Section 62. Section **76-6-409.7** is amended to read:

2891 **76-6-409.7. Possession of unlawful telecommunication device.**

2892 (1) ~~[Any person who]~~ Terms defined in Sections 76-1-101.5 and 76-6-409.5 apply to
2893 this section.

2894 (2) An actor commits possession of unlawful telecommunication device if the actor
2895 knowingly possesses an unlawful telecommunication device ~~[is guilty of a class B~~
2896 ~~misdemeanor].~~

2897 ~~[(2)]~~ (3) (a) ~~[Any person who]~~ Except as provided in Subsection (3)(b) or (3)(c), a
2898 violation of Subsection (2) is a class B misdemeanor.

2899 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a third
2900 degree felony if the actor knowingly possesses five or more unlawful telecommunication
2901 devices in the same criminal episode ~~[is guilty of a third degree felony].~~

2902 ~~[(3)]~~ (c) ~~[Any person is guilty of a]~~ A violation of Subsection (2) is a second degree
2903 felony ~~[who]~~ if the actor:

2904 ~~[(a)]~~ (i) knowingly and unlawfully possesses an instrument capable of intercepting
2905 electronic serial number and mobile identification number combinations under circumstances
2906 evidencing an intent to clone; or

2907 ~~[(b)]~~ (ii) knowingly and unlawfully possesses cloning paraphernalia under
2908 circumstances evidencing an intent to clone.

2909 (d) An actor who violates this section is subject to the restitution and civil action
2910 provisions described in Section 76-6-409.10.

2911 Section 63. Section **76-6-409.8** is amended to read:

2912 **76-6-409.8. Sale of an unlawful telecommunication device.**

2913 (1) ~~[Any person is guilty of a third degree felony who]~~ Terms defined in Sections
2914 76-1-101.5 and 76-6-409.5 apply to this section.

2915 (2) An actor commits sale of unlawful telecommunication device if the actor
2916 intentionally sells an unlawful telecommunication device or material, including hardware, data,
2917 computer software, or other information or equipment, knowing that the purchaser or a third

2918 person intends to use such material in the manufacture of an unlawful telecommunication
2919 device.

2920 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third
2921 degree felony.

2922 [~~(2)~~] (b) [H] A violation of Subsection (2) is a second degree felony if the offense
2923 [under this section] involves the intentional sale of five or more unlawful telecommunication
2924 devices within a six-month period[; the person committing the offense is guilty of a second
2925 degree felony].

2926 (c) An actor who violates this section is subject to the restitution and civil action
2927 provisions described in Section [76-6-409.10](#).

2928 Section 64. Section **76-6-409.9** is amended to read:

2929 **76-6-409.9. Manufacture of an unlawful telecommunication device.**

2930 (1) [~~Any person who~~] Terms defined in Sections [76-1-101.5](#) and [76-6-409.5](#) apply to
2931 this section.

2932 (2) An actor commits manufacture of unlawful telecommunication device if the actor
2933 intentionally manufactures an unlawful telecommunication device [is guilty of a third degree
2934 felony].

2935 [~~(2)~~] (3) (a) [~~If the offense under this section~~] Except as provided in Subsection (3)(b),
2936 a violation of Subsection (2) is third degree felony.

2937 (b) A violation of Subsection (2) is a second degree felony if the offense involves the
2938 intentional manufacture of five or more unlawful telecommunication devices within a
2939 six-month period[; the person committing the offense is guilty of a second degree felony].

2940 (c) An actor who violates this section is subject to the restitution and civil action
2941 provisions described in Section [76-6-409.10](#).

2942 Section 65. Section **76-6-409.10** is amended to read:

2943 **76-6-409.10. Payment of restitution -- Civil action -- Other remedies retained.**

2944 (1) [~~A person~~] Terms defined in Sections [76-1-101.5](#) and [76-6-409.5](#) apply to this

2945 section.

2946 (2) (a) (i) An actor who violates [~~Sections 76-6-409.5 through~~] Section 76-6-409.6,
2947 76-6-409.7, 76-6-409.8, or 76-6-409.9 shall make restitution to the telecommunication service
2948 provider for the value of the telecommunication service consumed in [~~violation of this section]~~
2949 the violation plus all reasonable expenses and costs incurred on account of the violation [~~of this~~
2950 section].

2951 (ii) Reasonable expenses and costs include expenses and costs for investigation,
2952 service calls, employee time, and equipment use.

2953 [~~(2)~~] (b) [~~Criminal~~] A criminal prosecution under [~~this section~~] Section 76-6-409.6,
2954 76-6-409.7, 76-6-409.8, or 76-6-409.9 does not affect the right of a telecommunication service
2955 provider to bring a civil action for redress for damages suffered as a result of the commission
2956 of any of the acts prohibited by [~~this section~~] Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or
2957 76-6-409.9.

2958 (3) This section does not abridge or alter any other right, action, or remedy otherwise
2959 available to a telecommunication service provider.

2960 Section 66. Section **76-6-410** is amended to read:

2961 **76-6-410. Theft by custodian of property pursuant to repair or rental agreement.**

2962 [~~A person is guilty of theft if:~~]

2963 (1) [~~Having~~] Terms defined in Section 76-1-101.5 apply to this section.

2964 (2) An actor commits theft by custodian of property pursuant to repair or rental
2965 agreement if:

2966 (a) (i) the actor has custody of property pursuant to an agreement between [himself] the
2967 actor or another person and the property's owner [thereof whereby];

2968 (ii) the actor or another person is to perform for compensation a specific service for the
2969 property's owner involving the maintenance, repair, or use of [such] the owner's property[; he];

2970 and

2971 (iii) the actor intentionally uses or operates [it] the owner's property, without the

2972 consent of the owner, for ~~[his]~~ the actor's own purposes in a manner constituting a gross
2973 deviation from the agreed purpose; or

2974 ~~[(2)]~~ (b) (i) [Having] the actor has custody of any property pursuant to a rental or lease
2975 agreement ~~[where it]~~ in which the property is to be returned in a specified manner or at a
2976 specified time~~[;]~~; and

2977 (ii) the actor intentionally fails to comply with the terms of the agreement concerning
2978 return so as to render such failure a gross deviation from the agreement.

2979 (3) A violation of Subsection (2) is:

2980 (a) a second degree felony if the:

2981 (i) value of the property is or exceeds \$5,000; or

2982 (ii) property stolen is a firearm or an operable motor vehicle;

2983 (b) a third degree felony if:

2984 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

2985 (ii) the property is a catalytic converter as defined under Section [76-6-1402](#);

2986 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
2987 convicted of any of the following offenses, if each prior offense was committed within 10 years
2988 before the date of the current conviction or the date of the offense upon which the current
2989 conviction is based and at least one of those convictions is for a class A misdemeanor:

2990 (A) any theft, any robbery, or any burglary with intent to commit theft;

2991 (B) any offense under Part 5, Fraud; or

2992 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

2993 (iv) the actor has been previously convicted of a felony violation of any of the offenses
2994 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
2995 within 10 years before the date of the current conviction or the date of the offense upon which
2996 the current conviction is based;

2997 (c) a class A misdemeanor if:

2998 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500; or

2999 (ii) the actor has been twice before convicted of any of the offenses listed in
3000 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
3001 years before the date of the current conviction or the date of the offense upon which the current
3002 conviction is based; or

3003 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
3004 theft is not an offense under Subsection (3)(c).

3005 Section 67. Section **76-6-410.5** is amended to read:

3006 **76-6-410.5. Theft of a rental vehicle.**

3007 (1) (a) As used in this section:

3008 ~~[(a)]~~ (i) "Motor vehicle" means a self-propelled vehicle that is intended primarily for
3009 use and operation on the highways.

3010 ~~[(b)]~~ (ii) "Rental agreement" means ~~[any]~~ a written agreement stating the terms and
3011 conditions governing the use of a motor vehicle provided by a rental company.

3012 ~~[(c)]~~ (iii) "Rental company" means ~~[any]~~ a person or organization in the business of
3013 providing motor vehicles to the public.

3014 ~~[(d)]~~ (iv) "Renter" means ~~[any]~~ a person or organization obtaining the use of a motor
3015 vehicle from a rental company under the terms of a rental agreement.

3016 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

3017 (2) ~~[A renter is guilty of]~~ An actor commits theft of a rental vehicle if~~;~~ the actor:

3018 (a) is a renter; and

3019 (b) without notice to and permission of the rental company, ~~[the renter]~~ knowingly fails
3020 without good cause to return the vehicle within 72 hours after the time established for the
3021 return in the rental agreement.

3022 (3) A violation of Subsection (2) is a second degree felony.

3023 ~~[(3)]~~ (4) If ~~[the]~~ a motor vehicle is not rented on a periodic tenancy basis, the rental
3024 company shall include the following information, legibly written, as part of the terms of the
3025 rental agreement:

3026 (a) the date and time the motor vehicle is required to be returned; and
3027 (b) the maximum penalties under state law if the motor vehicle is not returned within
3028 72 hours from the date and time stated in compliance with Subsection ~~[(3)(a)]~~ (4)(a).

3029 Section 68. Section **76-6-412.1** is enacted to read:

3030 **76-6-412.1. Civil remedy for animal theft.**

3031 In addition to a criminal penalty under this chapter, an actor who commits theft of a
3032 stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny,
3033 swine, poultry, a fur-bearing animal raised for commercial purposes, or a livestock guardian
3034 dog, is civilly liable for three times the amount of actual damages, if any sustained by the
3035 plaintiff, and for costs of suit and reasonable attorney fees.

3036 Section 69. Section **76-6-413** is amended to read:

3037 **76-6-413. Release of a fur-bearing animal -- Finding.**

3038 (1) ~~[In any case not amounting to a felony of the second degree, any person who]~~
3039 Terms defined in Section [76-1-101.5](#) apply to this section.

3040 (2) An actor commits release of a fur-bearing animal if the actor intentionally and
3041 without permission of the owner releases [any] a fur-bearing animal raised for commercial
3042 purposes [is guilty of a felony of the third degree].

3043 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third
3044 degree felony.

3045 (b) A violation of Subsection (2) is a second degree felony if the value of the property
3046 is or exceeds \$5,000.

3047 ~~[(2)]~~ (4) The Legislature finds that the release of a fur-bearing [animals] animal raised
3048 for commercial purposes subjects the [animals] animal to unnecessary suffering through
3049 deprivation of food and shelter and compromises [their] the animal's genetic integrity, thereby
3050 permanently depriving the owner of substantial value.

3051 (5) An actor who violates Subsection (2) is civilly liable for three times the amount of
3052 actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney

3053 fees.

3054 Section 70. Section **76-6-501** is amended to read:

3055 **76-6-501. Definitions -- Forgery.**

3056 (1) (a) As used in this ~~[part]~~ section:

3057 ~~[(a)]~~ (i) "Authentication feature" means any hologram, watermark, certification,
3058 symbol, code, image, sequence of numbers or letters, or other feature that either individually or
3059 in combination with another feature is used by the issuing authority on an identification
3060 document, document-making implement, or means of identification to determine if the
3061 document is counterfeit, altered, or otherwise falsified.

3062 ~~[(b)]~~ (ii) "Document-making implement" means any implement, impression, template,
3063 computer file, computer disc, electronic device, computer hardware or software, or scanning
3064 printing, or laminating equipment that is specifically configured or primarily used for making
3065 an identification document, a false identification document, or another document-making
3066 implement.

3067 ~~[(c)]~~ (iii) "False authentication feature" means an authentication feature that:

3068 ~~[(i)]~~ (A) is genuine in origin but that, without the authorization of the issuing authority,
3069 has been tampered with or altered for purposes of deceit;

3070 ~~[(ii)]~~ (B) is genuine, but has been distributed, or is intended for distribution, without
3071 the authorization of the issuing authority and not in connection with a lawfully made
3072 identification document, document-making implement, or means of identification to which the
3073 authentication feature is intended to be affixed or embedded by the issuing authority; or

3074 ~~[(iii)]~~ (C) appears to be genuine, but is not.

3075 ~~[(d)]~~ (iv) "False identification document" means a document of a type intended or
3076 commonly accepted for the purposes of identification of individuals, and that:

3077 ~~[(i)]~~ (A) is not issued by or under the authority of a governmental entity or was issued
3078 under the authority of a governmental entity but was subsequently altered for purposes of
3079 deceit; and

3080 ~~[(i)]~~ (B) appears to be issued by or under the authority of a governmental entity.

3081 ~~[(e)]~~ (v) "Governmental entity" means the United States government, a state, a political
3082 subdivision of a state, a foreign government, a political subdivision of a foreign government, an
3083 international governmental organization, or a quasi-governmental organization.

3084 ~~[(f)]~~ (vi) "Identification document" means a document made or issued by or under the
3085 authority of a governmental entity, which, when completed with information concerning a
3086 particular individual, is of a type intended or commonly accepted for the purpose of
3087 identification of individuals.

3088 ~~[(g)]~~ (vii) "Issuing authority" means:

3089 ~~[(i)]~~ (A) any governmental entity that is authorized to issue identification documents,
3090 means of identification, or authentication features; or

3091 ~~[(i)]~~ (B) a business organization or financial institution or its agent that issues a
3092 financial transaction card as defined in Section [76-6-506](#).

3093 ~~[(h)]~~ (viii) "Means of identification" means any name or number that may be used,
3094 alone or in conjunction with any other information, to identify a specific individual, including:

3095 ~~[(i)]~~ (A) name, social security number, date of birth, government issued driver license
3096 or identification number, alien registration number, government passport number, or employer
3097 or taxpayer identification number;

3098 ~~[(i)]~~ (B) unique biometric data, such as fingerprint, voice print, retina or iris image, or
3099 other unique physical representation; or

3100 ~~[(i)]~~ (C) unique electronic identification number, address, or routing code.

3101 ~~[(i)]~~ (ix) "Personal identification card" means an identification document issued by a
3102 governmental entity solely for the purpose of identification of an individual.

3103 ~~[(j)]~~ (x) "Produce" includes altering, authenticating, or assembling.

3104 ~~[(k)]~~ (xi) "State" includes any state of the United States, the District of Columbia, the
3105 Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the
3106 United States.

3107 [(†)] (xii) "Traffic" means to:
3108 [(†)] (A) transport, transfer, or otherwise dispose of an item to another, as consideration
3109 for anything of value; or
3110 [(†)] (B) make or obtain control of with intent to transport, transfer, or otherwise
3111 dispose of an item to another.
3112 [(†)] (xiii) "Writing" includes printing, electronic storage or transmission, or any other
3113 method of recording valuable information including forms such as:
3114 [(†)] (A) checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and
3115 any other symbols of value, right, privilege, or identification;
3116 [(†)] (B) a security, revenue stamp, or any other instrument or writing issued by a
3117 government or any agency; or
3118 [(†)] (C) a check, an issue of stocks, bonds, or any other instrument or writing
3119 representing an interest in or claim against property, or a pecuniary interest in or claim against
3120 any person or enterprise.
3121 (b) Terms defined in Section 76-1-101.5 apply to this section.
3122 (2) ~~[A person is guilty of]~~ An actor commits forgery if, with purpose to defraud
3123 anyone, or with knowledge that the ~~[person]~~ actor is facilitating a fraud to be perpetrated by
3124 anyone, the ~~[person]~~ actor:
3125 (a) alters any writing of another person without ~~[his]~~ the person's authority or utters the
3126 altered writing; or
3127 (b) makes, completes, executes, authenticates, issues, transfers, publishes, or utters any
3128 writing so that the writing or the making, completion, execution, authentication, issuance,
3129 transference, publication, or utterance:
3130 (i) purports to be the act of another person, whether the person is existent or
3131 nonexistent;
3132 (ii) purports to be an act on behalf of another party with the authority of that other
3133 party; or

3134 (iii) purports to have been executed at a time or place or in a numbered sequence other
3135 than was in fact the case, or to be a copy of an original when an original did not exist.

3136 (3) A violation of Subsection (2) is a third degree felony.

3137 ~~[(3)]~~ (4) It is not a defense to a charge of forgery under Subsection (2)(b)(ii) if an actor
3138 signs his own name to the writing if the actor does not have authority to make, complete,
3139 execute, authenticate, issue, transfer, publish, or utter the writing on behalf of the party for
3140 whom the actor purports to act.

3141 ~~[(4) A person is guilty of producing or transferring any false identification document~~
3142 ~~who:]~~

3143 ~~[(a) knowingly and without lawful authority produces, attempts, or conspires to~~
3144 ~~produce an identification document, authentication feature, or a false identification document~~
3145 ~~that is or appears to be issued by or under the authority of an issuing authority;]~~

3146 ~~[(b) transfers, or possesses with intent to transfer, an identification document,~~
3147 ~~authentication feature, or a false identification document knowing that the document or feature~~
3148 ~~was stolen or produced without lawful authority;]~~

3149 ~~[(c) produces, transfers, or possesses a document-making implement or authentication~~
3150 ~~feature with the intent that the document-making implement or the authentication feature be~~
3151 ~~used in the production of a false identification document or another document-making~~
3152 ~~implement or authentication feature, or]~~

3153 ~~[(d) traffics in false or actual authentication features for use in false identification~~
3154 ~~documents, document-making implements, or means of identification.]~~

3155 ~~[(5) A person who violates:]~~

3156 ~~[(a) Subsection (2) is guilty of a third degree felony; and]~~

3157 ~~[(b) Subsection (4) is guilty of a second degree felony.]~~

3158 ~~[(6)]~~ (5) This ~~[part]~~ section may not be construed to impose criminal or civil liability
3159 on any law enforcement officer acting within the scope of a criminal investigation.

3160 ~~[(7)]~~ (6) The forfeiture of property under this ~~[part]~~ section, including any seizure and

3161 disposition of the property and any related judicial or administrative proceeding, shall be
3162 conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

3163 ~~[(8)]~~ (7) The court shall order, in addition to the penalty prescribed for any person
3164 convicted of a violation of this section, the forfeiture and destruction or other disposition of all
3165 illicit authentication features, identification documents, false transaction cards,
3166 document-making implements, or means of identification.

3167 Section 71. Section **76-6-501.5** is enacted to read:

3168 **76-6-501.5. Producing or transferring false identification.**

3169 (1) Terms defined in Sections 76-1-101.5 and 76-6-501 apply to this section.

3170 (2) An actor commits producing or transferring a false identification document if the
3171 actor:

3172 (a) knowingly and without lawful authority produces, attempts, or conspires to produce
3173 an identification document, authentication feature, or a false identification document that is or
3174 appears to be issued by or under the authority of an issuing authority;

3175 (b) transfers, or possesses with intent to transfer, an identification document,
3176 authentication feature, or a false identification document knowing that the document or feature
3177 was stolen or produced without lawful authority;

3178 (c) produces, transfers, or possesses a document-making implement or authentication
3179 feature with the intent that the document-making implement or the authentication feature be
3180 used in the production of a false identification document or another document-making
3181 implement or authentication feature; or

3182 (d) traffics in false or actual authentication features for use in false identification
3183 documents, document-making implements, or means of identification.

3184 (3) A violation of Subsection (2) is a second degree felony.

3185 (4) This section may not be construed to impose criminal or civil liability on any law
3186 enforcement officer acting within the scope of a criminal investigation.

3187 (5) The forfeiture of property under this section, including any seizure and disposition

3188 of the property and any related judicial or administrative proceeding, shall be conducted in
3189 accordance with Title 24, Forfeiture and Disposition of Property Act.

3190 (6) The court shall order, in addition to the penalty prescribed for a person convicted of
3191 a violation of this section, the forfeiture and destruction or other disposition of all illicit
3192 authentication features, identification documents, false transaction cards, document-making
3193 implements, or means of identification.

3194 Section 72. Section **76-6-502** is amended to read:

3195 **76-6-502. Possession of forged writing or device for a forgery writing.**

3196 (1) (a) As used in this section~~[-,"device"]~~:

3197 (i) "Device" means any equipment, mechanism, material, or program.

3198 (ii) "Writing" means the same as that term is defined in Section 76-6-501.

3199 (b) Terms defined in Section 76-1-101.5 apply to this section.

3200 (2) An [~~individual~~] actor who, with intent to defraud, knowingly possesses a writing~~[-~~
3201 ~~as defined in Section 76-6-501,~~] that is a forgery under Section 76-6-501~~[-~~ or 76-6-501.5, or
3202 who with intent to defraud knowingly possesses a device for making a writing~~[-as defined in~~
3203 ~~Section 76-6-501,~~] that is a forgery under Section [~~76-6-501,~~ is guilty of a third degree felony.]
3204 76-6-501 or 76-6-501.5, commits possession of a forged writing or device for making a forgery
3205 writing.

3206 (3) A violation of Subsection (2) is a third degree felony.

3207 (4) This section may not be construed to impose criminal or civil liability on any law
3208 enforcement officer acting within the scope of a criminal investigation.

3209 (5) The forfeiture of property under this section, including any seizure and disposition
3210 of the property and any related judicial or administrative proceeding, shall be conducted in
3211 accordance with Title 24, Forfeiture and Disposition of Property Act.

3212 Section 73. Section **76-6-503.5** is amended to read:

3213 **76-6-503.5. Wrongful liens.**

3214 (1) (a) [~~"Lien"~~] As used in this section, "lien" means:

3215 ~~[(a)]~~ (i) an instrument or document filed pursuant to Section 70A-9a-516;
3216 ~~[(b)]~~ (ii) a nonconsensual common law document as defined in Section 38-9-102;
3217 ~~[(c)]~~ (iii) a wrongful lien as defined in Section 38-9-102; or
3218 ~~[(d)]~~ (iv) any instrument or document that creates or purports to create a lien or
3219 encumbrance on an owner's interest in real or personal property or a claim on another's assets.

3220 (b) Terms defined in Section 76-1-101.5 apply to this section.

3221 (2) ~~[A person is guilty of]~~ An actor commits the crime of wrongful lien if ~~[that person]~~
3222 the actor knowingly makes, utters, records, or files a lien:

3223 (a) having no objectively reasonable basis to believe ~~[he]~~ that the actor has a present
3224 and lawful property interest in the property or a claim on the assets; or

3225 (b) if the ~~[person]~~ actor files the lien in violation of a civil wrongful lien injunction
3226 pursuant to Title 38, Chapter 9a, Wrongful Lien Injunctions.

3227 (3) (a) ~~[A violation of this section]~~ Except as provided in Subsection (3)(b), a violation
3228 of Subsection (2) is a third degree felony ~~[unless the person].~~

3229 (b) If an actor has been previously convicted of an offense under this section ~~[, in which~~
3230 ~~case the violation]~~ or Section 76-6-503.6, a violation of Subsection (2) is a second degree
3231 felony.

3232 ~~[(4) (a) Any person who with intent to deceive or injure anyone falsifies, destroys,~~
3233 ~~removes, records, or conceals any will, deed, mortgage, security instrument, lien, or other~~
3234 ~~writing for which the law provides public recording is guilty of fraudulent handling of~~
3235 ~~recordable writings.]~~

3236 ~~[(b) A violation of Subsection (4)(a) is a third degree felony unless the person has been~~
3237 ~~previously convicted of an offense under this section, in which case the violation is a second~~
3238 ~~degree felony.]~~

3239 ~~[(5)]~~ (4) This section does not prohibit prosecution for any act in violation of Section
3240 76-8-414 or for any offense greater than an offense under this section.

3241 (5) This section may not be construed to impose criminal or civil liability on any law

3242 enforcement officer acting within the scope of a criminal investigation.

3243 (6) The forfeiture of property under this section, including any seizure and disposition
3244 of the property and any related judicial or administrative proceeding, shall be conducted in
3245 accordance with Title 24, Forfeiture and Disposition of Property Act.

3246 Section 74. Section **76-6-503.6** is enacted to read:

3247 **76-6-503.6. Fraudulent handling of recordable writings.**

3248 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-503.5](#) apply to this section.

3249 (2) An actor commits fraudulent handling of recordable writings if the actor:

3250 (a) has intent to deceive or injure; and

3251 (b) falsifies, destroys, removes, records, or conceals any will, deed, mortgage, security
3252 instrument, lien, or other writing for which the law provides public recording.

3253 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third
3254 degree felony.

3255 (b) If an actor has been previously convicted of an offense under this section or Section
3256 [76-6-503.5](#), a violation of Subsection (2) is a second degree felony.

3257 (4) This section does not prohibit prosecution for any act in violation of Section
3258 [76-8-414](#) or for any offense greater than an offense under this section.

3259 (5) This section may not be construed to impose criminal or civil liability on any law
3260 enforcement officer acting within the scope of a criminal investigation.

3261 (6) The forfeiture of property under this section, including any seizure and disposition
3262 of the property and any related judicial or administrative proceeding, shall be conducted in
3263 accordance with Title 24, Forfeiture and Disposition of Property Act.

3264 Section 75. Section **76-6-503.7** is amended to read:

3265 **76-6-503.7. Records filed with intent to harass or defraud.**

3266 ~~[(1) No person shall cause a record to be communicated to the filing office, as defined~~
3267 ~~in Section [70A-9a-513.5](#), for filing if:]~~

3268 ~~[(a) the person is not authorized to file the record under Section [70A-9a-509](#);~~

3269 ~~70A-9a-708, or 70A-9a-807;~~

3270 (1) (a) As used in this section, "filing office" means the same as that term is defined in
3271 Section 70A-9a-513.5.

3272 (b) Terms defined in Section 76-1-101.5 apply to this section.

3273 (2) An actor commits filing a record with intent to harass or defraud if:

3274 (a) the actor causes a record to be communicated to the filing office for filing;

3275 (b) the actor is not authorized to file the record under Section 70A-9a-509,

3276 70A-9a-708, or 70A-9a-807;

3277 ~~[(b)]~~ (c) the record is not related to an existing or anticipated transaction that is or will
3278 be governed by Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions; and

3279 ~~[(c)]~~ (d) the record is filed knowingly or intentionally to:

3280 (i) harass the person identified as the debtor in the record; or

3281 (ii) defraud the person identified as the debtor in the record.

3282 ~~[(2)]~~ (3) (a) ~~[A person who violates]~~ A violation of Subsections ~~[(1)(a)]~~ (2)(a), (b), (c),
3283 and ~~[(c)(i) is guilty of]~~ (d)(i) is a class B misdemeanor for a first offense and a class A
3284 misdemeanor for a second or subsequent offense.

3285 (b) ~~[A person who violates]~~ A violation of Subsections ~~[(1)(a)]~~ (2)(a), (b), (c), and
3286 ~~[(c)(ii) is guilty of]~~ (d)(ii) is a third degree felony.

3287 (4) This section may not be construed to impose criminal or civil liability on any law
3288 enforcement officer acting within the scope of a criminal investigation.

3289 (5) The forfeiture of property under this section, including any seizure and disposition
3290 of the property and any related judicial or administrative proceeding, shall be conducted in
3291 accordance with Title 24, Forfeiture and Disposition of Property Act.

3292 Section 76. Section **76-6-504** is amended to read:

3293 **76-6-504. Tampering with records.**

3294 (1) (a) ~~[Any person who;]~~ As used in this section, "writing" means the same as that
3295 term is defined in Section 76-6-501.

- 3296 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 3297 (2) An actor commits tampering with records if the actor:
- 3298 (a) having no privilege to do so, knowingly falsifies, destroys, removes, or conceals
- 3299 any writing, other than the writings enumerated in Section 76-6-503.5 for which the law
- 3300 provides public recording or any record, public or private[;]; and
- 3301 (b) executes an action described in Subsection (1)(a) with intent to:
- 3302 (i) deceive or injure any person; or [to]
- 3303 (ii) conceal any wrongdoing [is guilty of tampering with records].
- 3304 ~~[(2)]~~ (3) [Tampering with records] A violation of Subsection (2) is a class B
- 3305 misdemeanor.
- 3306 (4) This section may not be construed to impose criminal or civil liability on any law
- 3307 enforcement officer acting within the scope of a criminal investigation.
- 3308 (5) The forfeiture of property under this section, including any seizure and disposition
- 3309 of the property and any related judicial or administrative proceeding, shall be conducted in
- 3310 accordance with Title 24, Forfeiture and Disposition of Property Act.
- 3311 Section 77. Section **76-6-505** is amended to read:
- 3312 **76-6-505. Issuing a bad check or draft -- Presumption.**
- 3313 ~~[(1)(a) Any person who]~~
- 3314 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 3315 (2) (a) (i) An actor commits issuing a bad check or draft if:
- 3316 (A) the actor issues or passes a check or draft for the payment of money, for the
- 3317 purpose of obtaining from any person, firm, partnership, or corporation, any money, property,
- 3318 or other thing of value or paying for any services, wages, salary, labor, or rent[; knowing it];
- 3319 (B) the actor knows the check or draft will not be paid by the drawee; and
- 3320 (C) payment is refused by the drawee[; is guilty of issuing a bad check or draft].
- 3321 ~~[(b)]~~ (ii) For purposes of this Subsection [(1), a person] (2)(a), an actor who issues a
- 3322 check or draft for which payment is refused by the drawee is presumed to know the check or

3323 draft would not be paid if ~~[he]~~ the actor had no account with the drawee at the time of issue.

3324 ~~[(2)]~~ (b) ~~[Any person who]~~ An actor commits issuing a bad check or draft if:

3325 (i) the actor issues or passes a check or draft for:

3326 (A) the payment of money, for the purpose of obtaining from any person, firm,
3327 partnership, or corporation, any money, property, or other thing of value; or

3328 (B) paying for any services, wages, salary, labor, or rent[-];

3329 (ii) payment of ~~[which]~~ the check or draft is legally refused by the drawee~~[-, is guilty of~~
3330 ~~issuing a bad check or draft if he]~~; and

3331 (iii) the actor fails to make good and actual payment to the payee in the amount of the
3332 refused check or draft within 14 days of ~~[his]~~ the actor receiving actual notice of the check or
3333 draft's nonpayment.

3334 (3) ~~[An offense of issuing a bad check or draft shall be]~~ A violation of Subsection
3335 (2)(a) or (b) is punished as follows:

3336 (a) ~~[H]~~ if the check or draft or series of checks or drafts made or drawn in this state
3337 within a period not exceeding six months amounts to a sum that is less than \$500, the offense
3338 is a class B misdemeanor[-];

3339 (b) ~~[H]~~ if the check or draft or checks or drafts made or drawn in this state within a
3340 period not exceeding six months amounts to a sum that is or exceeds \$500 but is less than
3341 \$1,500, the offense is a class A misdemeanor[-];

3342 (c) ~~[H]~~ if the check or draft or checks or drafts made or drawn in this state within a
3343 period not exceeding six months amounts to a sum that is or exceeds \$1,500 but is less than
3344 \$5,000, the offense is a third degree felony ~~[of the third degree.]~~; or

3345 (d) ~~[H]~~ if the check or draft or checks or drafts made or drawn in this state within a
3346 period not exceeding six months amounts to a sum that is or exceeds \$5,000, the offense is a
3347 second degree felony.

3348 (4) This section may not be construed to impose criminal or civil liability on any law
3349 enforcement officer acting within the scope of a criminal investigation.

3350 (5) The forfeiture of property under this section, including any seizure and disposition
3351 of the property and any related judicial or administrative proceeding, shall be conducted in
3352 accordance with Title 24, Forfeiture and Disposition of Property Act.

3353 Section 78. Section **76-6-506** is amended to read:

3354 **76-6-506. Financial transaction card offenses -- Definitions.**

3355 As used in ~~[this part]~~ Sections [76-6-506.2](#), [76-6-506.3](#), [76-6-506.6](#), [76-6-506.8](#), and
3356 [76-6-506.9](#):

3357 (1) "Authorized credit card merchant" means a person who is authorized by an issuer to
3358 furnish money, goods, services, or anything else of value upon presentation of a financial
3359 transaction card by a card holder and to present valid credit card sales drafts to the issuer for
3360 payment.

3361 (2) "Automated banking device" means any machine which, when properly activated
3362 by a financial transaction card or a personal identification code, may be used for any of the
3363 purposes for which a financial transaction card may be used.

3364 (3) "Card holder" means any person or organization named on the face of a financial
3365 transaction card to whom or for whose benefit a financial transaction card is issued.

3366 (4) "Credit card sales draft" means any sales slip, draft, or other written or electronic
3367 record of a sale of money, goods, services, or anything else of value made or purported to be
3368 made to or at the request of a card holder with a financial transaction card, financial transaction
3369 card credit number, or personal identification code, whether the record of the sale or purported
3370 sale is evidenced by a sales draft, voucher, or other similar document in writing or
3371 electronically recorded and transmitted.

3372 (5) "Financial transaction card" means:

3373 (a) any credit card, credit plate, bank services card, banking card, check guarantee card,
3374 debit card, telephone credit card, or any other card, issued by an issuer for the use of the card
3375 holder in obtaining money, goods, services, or anything else of value on credit, or in certifying
3376 or guaranteeing to a person or business the availability to the card holder of the funds on

3377 deposit that are equal to or greater than the amount necessary to honor a draft or check payable
3378 to the order of the person or business; or

3379 (b) any instrument or device used in providing the card holder access to a demand or
3380 time deposit account for the purpose of making deposits of money or checks in the account, or
3381 withdrawing funds from the account in the form of money, money orders, travelers' checks, or
3382 other form representing value, or transferring funds from any demand or time deposit account
3383 to any credit card account in full or partial satisfaction of any outstanding balance existing in
3384 the credit card account.

3385 (6) "Issuer" means a business organization or financial institution or its agent that
3386 issues a financial transaction card.

3387 (7) "Personal identification code" means any numerical or alphabetical code assigned
3388 to a card holder by the issuer to permit the authorized electronic use of the holder's financial
3389 transaction card.

3390 Section 79. Section **76-6-506.2** is amended to read:

3391 **76-6-506.2. Unlawful use of financial transaction card.**

3392 [~~It is unlawful for any person to:~~]

3393 (1) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.

3394 (2) An actor commits unlawful use of financial transaction card if the actor:

3395 (a) knowingly [~~use a false, fictitious, altered, counterfeit,~~] uses a revoked, expired,
3396 stolen, or fraudulently obtained financial transaction card to obtain or attempt to obtain credit,
3397 goods, property, or services;

3398 [(2)] (b) knowingly, with the intent to defraud, [~~use~~] uses a financial transaction card,
3399 credit number, personal identification code, or any other information contained on the card or
3400 in the account from which the card is issued, to obtain or attempt to obtain credit, goods, or
3401 services;

3402 [(3)] (c) knowingly, with the intent to defraud, [~~use~~] uses a financial transaction card to
3403 willfully exceed an authorized credit line by \$500 or more, or by 50% or more of the line of

3404 credit, whichever is greater; or

3405 ~~[(4) (a) knowingly, with the intent to defraud, make application for a financial~~
3406 ~~transaction card to an issuer and make or cause to be made a false statement or report of the~~
3407 ~~person's name, occupation, financial condition, assets, or personal identifying information; or]~~

3408 ~~[(b) willfully and substantially undervalue or understate any indebtedness for the~~
3409 ~~purposes of influencing the issuer to issue the financial transaction card; or]~~

3410 ~~[(5) (d) knowingly, with the intent to defraud, [present or cause] presents or causes to~~
3411 ~~be presented to the issuer or an authorized credit card merchant, for payment or collection, any~~
3412 ~~credit card sales draft, if:~~

3413 ~~[(a) (i) the draft is counterfeit or fictitious;~~

3414 ~~[(b) (ii) the purported sales evidenced by any credit card sales draft did not take place;~~

3415 ~~[(c) (iii) the purported sale was not authorized by the card holder; or~~

3416 ~~[(d) (iv) the items or services purported to be sold as evidenced by the credit card sales~~
3417 ~~drafts are not delivered or rendered to the card holder or person intended to receive them.~~

3418 (3) (a) A violation of Subsection (2) is:

3419 (i) a class B misdemeanor if the value of the property, money, or thing obtained or
3420 sought to be obtained is less than \$500;

3421 (ii) a class A misdemeanor if the value of the property, money, or thing obtained or
3422 sought to be obtained is or exceeds \$500 but is less than \$1,500;

3423 (iii) a third degree felony if the value of the property, money, or thing obtained or
3424 attempted to be obtained is or exceeds \$1,500 but is less than \$5,000; or

3425 (iv) a second degree felony if the value of the property, money, or thing obtained or
3426 attempted to be obtained is or exceeds \$5,000.

3427 (b) Multiple violations of Subsection (2)(a) may be aggregated into a single offense,
3428 and the degree of the offense is determined by the total value of all property, money, or things
3429 obtained or attempted to be obtained through the multiple violations.

3430 (4) The court shall make appropriate findings in any prosecution under this section that

3431 the card holder did not commit the crime.

3432 (5) This section may not be construed to impose criminal or civil liability on any law
3433 enforcement officer acting within the scope of a criminal investigation.

3434 (6) The forfeiture of property under this section, including any seizure and disposition
3435 of the property and any related judicial or administrative proceeding, shall be conducted in
3436 accordance with Title 24, Forfeiture and Disposition of Property Act.

3437 Section 80. Section **76-6-506.3** is amended to read:

3438 **76-6-506.3. Unlawful acquisition, possession, or transfer of financial transaction**
3439 **card.**

3440 ~~[(1) Under circumstances that do not constitute a violation of Subsection (2), an~~
3441 ~~individual is guilty of a third-degree felony who:]~~

3442 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-506](#) apply to this section.

3443 (2) An actor commits unlawful acquisition, possession, or transfer of a financial
3444 transaction card if the actor:

3445 (a) under circumstances that do not constitute a violation of Subsection (2)(b):

3446 ~~[(a)]~~ (i) acquires a financial transaction card from another without the consent of the
3447 card holder or the issuer;

3448 ~~[(b)]~~ (ii) receives a financial transaction card with intent to use the financial transaction
3449 card in violation of Section [76-6-506.2](#);

3450 ~~[(c)]~~ (iii) sells or transfers a financial transaction card to a person with knowledge that
3451 the financial transaction card will be used in violation of Section [76-6-506.2](#);

3452 ~~[(d)]~~ (iv) ~~[(f)]~~ (A) acquires a financial transaction card that the individual knows was
3453 lost, mislaid, stolen, or delivered under a mistake as to the identity or address of the card
3454 holder; and

3455 ~~[(f)]~~ (B) ~~[(A)]~~ (I) retains possession with intent to use the financial transaction card in
3456 violation of Section [76-6-506.2](#); or

3457 ~~[(B)]~~ (II) sells or transfers the financial transaction card to a person with knowledge

3458 that the financial transaction card will be used in violation of Section 76-6-506.2; or
 3459 ~~[(e)]~~ (v) possesses, sells, or transfers any information necessary for the use of a
 3460 financial transaction card, including the credit number of the card, the expiration date of the
 3461 card, or the personal identification code related to the card:
 3462 ~~[(i)]~~ (A) ~~[(A)]~~ (I) without the consent of the card holder or the issuer; or
 3463 ~~[(B)]~~ (II) with knowledge that the information has been acquired without consent of the
 3464 card holder or the issuer; and
 3465 ~~[(ii)]~~ (B) with intent to use the information in violation of Section 76-6-506.2~~[-];~~ or
 3466 ~~[(2)]~~ (b) ~~[An individual is guilty of a second degree felony who]~~ possesses, sells, or
 3467 transfers any information necessary for the use of 100 or more financial transaction cards,
 3468 including the credit number of a card, the expiration date of a card, or the personal
 3469 identification code related to a card:
 3470 ~~[(a)]~~ (i) with intent to use the information in violation of Section 76-6-506.2; or
 3471 ~~[(b)]~~ (ii) with knowledge that the information will be used by another in violation of
 3472 Section 76-6-506.2.
 3473 (3) (a) A violation of Subsection (2)(a) is a third degree felony.
 3474 (b) A violation of Subsection (2)(b) is a second degree felony.
 3475 (4) This section may not be construed to impose criminal or civil liability on any law
 3476 enforcement officer acting within the scope of a criminal investigation.
 3477 (5) The forfeiture of property under this section, including any seizure and disposition
 3478 of the property and any related judicial or administrative proceeding, shall be conducted in
 3479 accordance with Title 24, Forfeiture and Disposition of Property Act.
 3480 Section 81. Section 76-6-506.6 is amended to read:
 3481 **76-6-506.6. Financial transaction card offenses -- Unauthorized factoring of**
 3482 **credit card sales drafts.**
 3483 ~~[It is unlawful for any person;]~~
 3484 (1) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.

3485 (2) An actor commits an unauthorized factoring of credit card sales draft if the actor
3486 acts:

3487 (a) knowingly, with intent to defraud[~~;~~acting];

3488 (b) without the express authorization of the issuer[;]; and

3489 (c) to employ, solicit, or otherwise cause an authorized credit card merchant, or for the
3490 authorized credit card merchant himself or herself, to present any credit card sales draft to the
3491 issuer:

3492 (i) for payment pertaining to any sale or purported sale of goods or services [~~which~~
3493 was]; and

3494 (ii) the sale or purported sale was not made by the authorized credit card merchant in
3495 the ordinary course of business.

3496 (3) (a) A violation of Subsection (2) is:

3497 (i) a class B misdemeanor if the value of the property, money, or thing obtained or
3498 sought to be obtained is less than \$500;

3499 (ii) a class A misdemeanor if the value of the property, money, or thing obtained or
3500 sought to be obtained is or exceeds \$500 but is less than \$1,500;

3501 (iii) a third degree felony if the value of the property, money, or thing obtained or
3502 attempted to be obtained is or exceeds \$1,500 but is less than \$5,000; or

3503 (iv) a second degree felony if the value of the property, money, or thing obtained or
3504 attempted to be obtained is or exceeds \$5,000.

3505 (b) Multiple violations of Subsection (2) may be aggregated into a single offense, and
3506 the degree of the offense is determined by the total value of all property, money, or things
3507 obtained or attempted to be obtained through the multiple violations.

3508 (4) The court shall make appropriate findings in any prosecution under this section that
3509 the card holder did not commit the crime.

3510 (5) This section may not be construed to impose criminal or civil liability on any law
3511 enforcement officer acting within the scope of a criminal investigation.

3512 (6) The forfeiture of property under this section, including any seizure and disposition
 3513 of the property and any related judicial or administrative proceeding, shall be conducted in
 3514 accordance with Title 24, Forfeiture and Disposition of Property Act.

3515 Section 82. Section **76-6-506.7** is amended to read:

3516 **76-6-506.7. Obtaining encoded information on a financial transaction card with**
 3517 **the intent to defraud the issuer, holder, or merchant.**

3518 (1) (a) As used in this section:

3519 (i) "Card holder" means the same as that term is defined in Section [76-6-506](#).

3520 ~~(a)~~ (ii) "Financial transaction card" or "card" means any credit card, credit plate, bank
 3521 services card, banking card, check guarantee card, debit card, telephone credit card, or any
 3522 other card, issued by an issuer for the use of the card holder in:

3523 ~~(i)~~ (A) obtaining money, goods, services, or anything else of value on credit; or

3524 ~~(i)~~ (B) certifying or guaranteeing to a merchant the availability to the card holder of
 3525 the funds on deposit that are equal to or greater than the amount necessary to honor a draft or
 3526 check as the instrument for obtaining, purchasing, or receiving goods, services, money, or any
 3527 other thing of value from the merchant.

3528 ~~(b)~~ (iii) ~~(i)~~ (A) "Merchant" means an owner or operator of any retail mercantile
 3529 establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or
 3530 independent contractor of the owner or operator.

3531 ~~(i)~~ (B) "Merchant" also means a person:

3532 ~~(A)~~ (I) who receives from a card holder, or a third person the merchant believes to be
 3533 the card holder, a financial transaction card or information from a financial transaction card, or
 3534 what the merchant believes to be a financial transaction card or information from a card; and

3535 ~~(B)~~ (II) who accepts the financial transaction card or information from a card under
 3536 Subsection (1)(a)(ii)(B) as the instrument for obtaining, purchasing, or receiving goods,
 3537 services, money, or any other thing of value from the merchant.

3538 ~~(c)~~ (iv) "Reencoder" means an electronic device that places encoded information

3539 from the magnetic strip or stripe of a financial transaction card onto the magnetic strip or stripe
3540 of a different financial transaction card.

3541 ~~[(d)]~~ (v) "Scanning device" means a scanner, reader, or any other electronic device
3542 used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information
3543 encoded on the magnetic strip or stripe of a financial transaction card.

3544 ~~[(2)(a) A person is guilty of a third degree felony who uses:]~~

3545 (b) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.

3546 (2) An actor commits obtaining encoded information on a financial transaction card
3547 with the intent to defraud the issuer, holder, or merchant if the actor uses:

3548 ~~[(i)]~~ (a) a scanning device to access, read, obtain, memorize, or store, temporarily or
3549 permanently, information encoded on the magnetic strip or stripe of a financial transaction
3550 card:

3551 (i) without the permission of the card holder; and

3552 (ii) with intent to defraud the card holder, the issuer, or a merchant; or

3553 ~~[(ii)]~~ (b) a reencoder to place information encoded on the magnetic strip or stripe of a
3554 financial transaction card onto the magnetic strip or stripe of a different card:

3555 (i) without the permission of the authorized user of the card from which the
3556 information is being reencoded; and

3557 (ii) with the intent to defraud the card holder, the issuer, or a merchant.

3558 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third
3559 degree felony.

3560 (b) ~~[Any person]~~ An actor who has been convicted previously of an offense under
3561 Subsection ~~[(2)(a)]~~ (2) is guilty of a second degree felony upon a second conviction and any
3562 subsequent conviction for the offense.

3563 (4) This section may not be construed to impose criminal or civil liability on any law
3564 enforcement officer acting within the scope of a criminal investigation.

3565 (5) The forfeiture of property under this section, including any seizure and disposition

3566 of the property and any related judicial or administrative proceeding, shall be conducted in
3567 accordance with Title 24, Forfeiture and Disposition of Property Act.

3568 Section 83. Section **76-6-506.8** is enacted to read:

3569 **76-6-506.8. False application for financial transaction card.**

3570 (1) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.

3571 (2) An actor commits false application for a card if the actor:

3572 (a) knowingly, with the intent to defraud:

3573 (i) makes application for a financial transaction card to an issuer; and

3574 (ii) makes or causes to be made a false statement or report of the actor's name,

3575 occupation, financial condition, assets, or personal identifying information; or

3576 (b) willfully and substantially undervalues or understates any indebtedness for the

3577 purposes of influencing the issuer to issue the financial transaction card.

3578 (3) A violation of Subsection (2) is:

3579 (a) a class B misdemeanor if the value of the property, money, or thing obtained or
3580 sought to be obtained is less than \$500;

3581 (b) a class A misdemeanor if the value of the property, money, or thing obtained or
3582 sought to be obtained is or exceeds \$500 but is less than \$1,500;

3583 (c) a third degree felony if the value of the property, money, or thing obtained or
3584 attempted to be obtained is or exceeds \$1,500 but is less than \$5,000; or

3585 (d) a second degree felony if the value of the property, money, or thing obtained or
3586 attempted to be obtained is or exceeds \$5,000.

3587 (4) The court shall make appropriate findings in any prosecution under this section that
3588 the card holder did not commit the crime.

3589 (5) This section may not be construed to impose criminal or civil liability on any law
3590 enforcement officer acting within the scope of a criminal investigation.

3591 (6) The forfeiture of property under this section, including any seizure and disposition
3592 of the property and any related judicial or administrative proceeding, shall be conducted in

3593 accordance with Title 24, Forfeiture and Disposition of Property Act.

3594 Section 84. Section **76-6-506.9** is enacted to read:

3595 **76-6-506.9. Use of fraudulent financial transaction card.**

3596 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-506](#) apply to this section.

3597 (2) An actor commits fraudulent use of a financial transaction card if the actor
3598 knowingly uses a false, fictitious, altered, or counterfeit financial transaction card to obtain or
3599 attempt to obtain credit, goods, property, or services.

3600 (3) (a) A violation of Subsection (2) is:

3601 (i) a class B misdemeanor if the value of the property, money, or thing obtained or
3602 sought to be obtained is less than \$500;

3603 (ii) a class A misdemeanor if the value of the property, money, or thing obtained or
3604 sought to be obtained is or exceeds \$500 but is less than \$1,500;

3605 (iii) a third degree felony if the value of the property, money, or thing obtained or
3606 attempted to be obtained is or exceeds \$1,500 but is less than \$5,000; or

3607 (iv) a second degree felony if the value of the property, money, or thing obtained or
3608 attempted to be obtained is or exceeds \$5,000.

3609 (b) Multiple violations of Subsection (2) may be aggregated into a single offense, and
3610 the degree of the offense is determined by the total value of all property, money, or things
3611 obtained or attempted to be obtained through the multiple violations.

3612 (4) The court shall make appropriate findings in any prosecution under this section that
3613 the card holder did not commit the crime.

3614 (5) This section may not be construed to impose criminal or civil liability on any law
3615 enforcement officer acting within the scope of a criminal investigation.

3616 (6) The forfeiture of property under this section, including any seizure and disposition
3617 of the property and any related judicial or administrative proceeding, shall be conducted in
3618 accordance with Title 24, Forfeiture and Disposition of Property Act.

3619 Section 85. Section **76-6-507** is amended to read:

3620 **76-6-507. Deceptive business practices.**

3621 ~~[(1) A person is guilty of a class B misdemeanor if, in the course of business, he:]~~

3622 (1) (a) As used in this section:

3623 (i) "Adulterated" means varying from the standard of composition or quality
3624 prescribed, or pursuant to any statute providing criminal penalties for a variance, or set by
3625 established commercial usage.

3626 (ii) "Mislabeled" means varying from the standard of truth or disclosure in labeling
3627 prescribed by or pursuant to any statute providing criminal penalties for a variance, or set by
3628 established commercial usage.

3629 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

3630 (2) An actor commits deceptive business practices if the actor, in the course of
3631 business:

3632 (a) uses or possesses for use a false weight or measure, or any other device for falsely
3633 determining or recording any quality or quantity;

3634 (b) takes or attempts to take more than the represented quantity of any commodity or
3635 service when as buyer ~~[he]~~ the actor furnishes the weight or measure; or

3636 (c) sells, offers, or exposes for sale adulterated or mislabeled commodities.

3637 ~~[(2) (a) "Adulterated" means varying from the standard of composition or quality~~
3638 ~~prescribed, or pursuant to any statute providing criminal penalties for a variance, or set by~~
3639 ~~established commercial usage.]~~

3640 ~~[(b) "Mislabeled" means varying from the standard of truth or disclosure in labeling~~
3641 ~~prescribed by or pursuant to any statute providing criminal penalties for a variance, or set by~~
3642 ~~established commercial usage.]~~

3643 (3) A violation of Subsection (2) is a class B misdemeanor.

3644 (4) It is an affirmative defense to prosecution under this section that the defendant's
3645 conduct was not knowing or reckless.

3646 (5) This section may not be construed to impose criminal or civil liability on any law

3647 enforcement officer acting within the scope of a criminal investigation.

3648 (6) The forfeiture of property under this section, including any seizure and disposition
3649 of the property and any related judicial or administrative proceeding, shall be conducted in
3650 accordance with Title 24, Forfeiture and Disposition of Property Act.

3651 Section 86. Section **76-6-508** is amended to read:

3652 **76-6-508. Bribery of or receiving bribe by person in the business of selection,**
3653 **appraisal, or criticism of goods or services.**

3654 (1) ~~[A person is guilty of a class A misdemeanor when,]~~ Terms defined in Section
3655 76-1-101.5 apply to this section.

3656 (2) An actor commits bribery or receiving a bribe if the actor:

3657 (a) without the consent of the employer or principal, and contrary to the interests of the
3658 employer or principal:

3659 ~~[(a)]~~ (i) ~~[he]~~ confers, offers, or agrees to confer upon the employee, agent, or fiduciary
3660 of an employer or principal any benefit with the purpose of influencing the conduct of the
3661 employee, agent, or fiduciary in relating to his employer's or principal's affairs; or

3662 ~~[(b)]~~ (ii) ~~[he,]~~ as an employee, agent, or fiduciary of an employer or principal, solicits,
3663 accepts, or agrees to accept any benefit from another upon an agreement or understanding that
3664 such benefit will influence ~~[his]~~ the actor's conduct in relation to ~~[his]~~ the actor's, employer's,
3665 or principal's affairs; ~~[provided that this section does not apply to inducements made or~~
3666 ~~accepted solely for the purpose of causing a change in employment by an employee, agent, or~~
3667 ~~fiduciary.]~~ or

3668 ~~[(2)]~~ (b) (i) ~~[A person is guilty of violation of this section if he holds himself]~~ holds the
3669 actor's self out to the public as being engaged in the business of making disinterested selection,
3670 appraisal, or criticism of goods or services; and ~~[he]~~

3671 (ii) solicits, accepts, or agrees to accept any benefit to influence ~~[his]~~ the actor's
3672 selection, appraisal, or criticism.

3673 (3) A violation of Subsection (2) is a class A misdemeanor.

3674 (4) This section does not apply to inducements made or accepted solely for the purpose
3675 of causing a change in employment by an employee, agent, or fiduciary.

3676 (5) This section may not be construed to impose criminal or civil liability on any law
3677 enforcement officer acting within the scope of a criminal investigation.

3678 (6) The forfeiture of property under this section, including any seizure and disposition
3679 of the property and any related judicial or administrative proceeding, shall be conducted in
3680 accordance with Title 24, Forfeiture and Disposition of Property Act.

3681 Section 87. Section **76-6-509** is amended to read:

3682 **76-6-509. Bribery of a labor official.**

3683 (1) ~~[Any person who]~~ Terms defined in Section 76-1-101.5 apply to this section.

3684 (2) An actor commits bribery of a labor official if the actor:

3685 (a) offers, confers, or agrees to confer upon a labor official any benefit ~~[with]; and~~

3686 (b) has intent to influence ~~[him]~~ the labor official in respect to any of ~~[his]~~ the labor
3687 official's acts, decisions, or duties as a labor official ~~[is guilty of bribery of a labor official].~~

3688 ~~[(2)]~~ (3) ~~[Bribery of a labor official is a]~~ A violation of Subsection (2) is a third degree
3689 felony ~~[of the third degree].~~

3690 (4) This section may not be construed to impose criminal or civil liability on any law
3691 enforcement officer acting within the scope of a criminal investigation.

3692 (5) The forfeiture of property under this section, including any seizure and disposition
3693 of the property and any related judicial or administrative proceeding, shall be conducted in
3694 accordance with Title 24, Forfeiture and Disposition of Property Act.

3695 Section 88. Section **76-6-510** is amended to read:

3696 **76-6-510. Receiving a bribe by a labor official.**

3697 (1) ~~[Any labor official who]~~ Terms defined in Section 76-1-101.5 apply to this section.

3698 (2) A labor official commits receiving a bribe by a labor official if the labor official
3699 solicits, accepts, or agrees to accept any benefit from another person upon an agreement or
3700 understanding that the benefit will influence ~~[him]~~ the labor official in any of ~~[his]~~ the labor

3701 official's acts, decisions, or duties as a labor official [is guilty of bribe receiving by a labor
3702 official].

3703 ~~[(2)]~~ (3) ~~[Bribe receiving by a labor official is a]~~ A violation of Subsection (2) is a third
3704 degree felony [of the third degree].

3705 (4) This section may not be construed to impose criminal or civil liability on any law
3706 enforcement officer acting within the scope of a criminal investigation.

3707 (5) The forfeiture of property under this section, including any seizure and disposition
3708 of the property and any related judicial or administrative proceeding, shall be conducted in
3709 accordance with Title 24, Forfeiture and Disposition of Property Act.

3710 Section 89. Section **76-6-511** is amended to read:

3711 **76-6-511. Defrauding of creditors.**

3712 ~~[A person is guilty of a class A misdemeanor if:]~~

3713 (1) ~~[he]~~ Terms defined in Section [76-1-101.5](#) apply to this section.

3714 (2) An actor commits defrauding of creditors if the actor:

3715 (a) destroys, removes, conceals, encumbers, transfers, or otherwise deals with property
3716 subject to a security interest with a purpose to hinder enforcement of that interest; or

3717 ~~[(2)]~~ (b) knowing that proceedings have been or are about to be instituted for the
3718 appointment of a person entitled to administer property for the benefit of creditors~~[-he]~~:

3719 ~~[(a)]~~ (i) destroys, removes, conceals, encumbers, transfers, or otherwise deals with any
3720 property with a purpose to defeat or obstruct the claim of any creditor, or otherwise to obstruct
3721 the operation of any law relating to administration of property for the benefit of creditors; or

3722 ~~[(b)]~~ (ii) presents to any creditor or to an assignee for the benefit of creditors, orally or
3723 in writing, any statement relating to the debtor's estate, knowing that a material part of such
3724 statement is false.

3725 (3) A violation of Subsection (2) is a class A misdemeanor.

3726 (4) This section may not be construed to impose criminal or civil liability on any law
3727 enforcement officer acting within the scope of a criminal investigation.

3728 (5) The forfeiture of property under this section, including any seizure and disposition
3729 of the property and any related judicial or administrative proceeding, shall be conducted in
3730 accordance with Title 24, Forfeiture and Disposition of Property Act.

3731 Section 90. Section **76-6-512** is amended to read:

3732 **76-6-512. Acceptance of deposit by insolvent financial institution.**

3733 [~~A person is guilty of a felony of the third degree if:~~]

3734 (1) (a) As used in this section, "financial institution" means the same as that term is
3735 defined in Section 7-1-103.

3736 (b) Terms defined in Section 76-1-101.5 apply to this section.

3737 (2) An actor commits acceptance of a deposit by an insolvent financial institution if:

3738 (a) as an officer, manager, or other person participating in the direction of a financial
3739 institution, as defined in Section 7-1-103, [he] the actor receives or permits receipt of a deposit
3740 or other investment knowing that the institution is or is about to become unable, from any
3741 cause, to pay its obligations in the ordinary course of business; and

3742 [(2)] (b) [he] the actor knows that the person making the payment to the institution is
3743 unaware of such present or prospective inability.

3744 (3) A violation of Subsection (2) is a third degree felony.

3745 (4) This section may not be construed to impose criminal or civil liability on any law
3746 enforcement officer acting within the scope of a criminal investigation.

3747 (5) The forfeiture of property under this section, including any seizure and disposition
3748 of the property and any related judicial or administrative proceeding, shall be conducted in
3749 accordance with Title 24, Forfeiture and Disposition of Property Act.

3750 Section 91. Section **76-6-513** is amended to read:

3751 **76-6-513. Unlawful dealing of property by a fiduciary.**

3752 (1) (a) As used in this section:

3753 [(a)] (i) "Fiduciary" means the same as that term is defined in Section 22-1-1.

3754 [(b)] (ii) "Financial institution" means "depository institution" and "trust company" as

3755 defined in Section 7-1-103.

3756 ~~[(e)]~~ (iii) "Governmental entity" is as defined in Section 63G-7-102.

3757 ~~[(d)]~~ (iv) "Person" does not include a financial institution whose fiduciary functions are
3758 supervised by the Department of Financial Institutions or a federal regulatory agency.

3759 ~~[(e)]~~ (v) "Property" means the same as that term is defined in Section 76-6-401.

3760 (b) Terms defined in Section 76-1-101.5 apply to this section.

3761 (2) ~~[A person is guilty of]~~ An actor commits unlawfully dealing with property by a
3762 fiduciary if the ~~[person]~~ actor:

3763 (a) deals with property:

3764 (i) that has been entrusted to ~~[him]~~ the actor as a fiduciary, or property of a
3765 governmental entity, public money, or of a financial institution~~;~~; and

3766 (ii) in a manner which:

3767 (A) the ~~[person]~~ actor knows is a violation of the ~~[person's]~~ actor's duty; and ~~[which]~~

3768 (B) involves substantial risk of loss or detriment to the property owner or to a person
3769 for whose benefit the property was entrusted~~[- A violation of this Subsection (2) is punishable~~
3770 under Section 76-6-412-]; or

3771 (b) acting as a fiduciary pledges:

3772 (i) as collateral for a personal loan, or as collateral for the benefit of some party, other
3773 than the owner or the person for whose benefit the property was entrusted, the property that has
3774 been entrusted to the fiduciary; and

3775 (ii) without permission of the owner of the property or some other authorized person.

3776 (3) (a) ~~[A person acting as a fiduciary is guilty of a violation of this subsection if,~~
3777 ~~without permission of the owner of the property or some other person with authority to give~~
3778 ~~permission, the person pledges as collateral for a personal loan, or as collateral for the benefit~~
3779 ~~of some party, other than the owner or the person for whose benefit the property was entrusted,~~
3780 ~~the property that has been entrusted to the fiduciary.]~~ A violation of Subsection (2)(a) is:

3781 (i) a second degree felony if the:

3782 (A) value of the property is or exceeds \$5,000; or
 3783 (B) property is stolen from the person of another;
 3784 (ii) a third degree felony if:
 3785 (A) the value of the property is or exceeds \$1,500 but is less than \$5,000;
 3786 (B) the value of the property is or exceeds \$500 and the actor has been twice before
 3787 convicted of any of the following offenses, if each prior offense was committed within 10 years
 3788 before the date of the current conviction or the date of the offense upon which the current
 3789 conviction is based and at least one of those convictions is for a class A misdemeanor:
 3790 (I) any theft, any robbery, or any burglary with intent to commit theft;
 3791 (II) any offense under Part 5, Fraud; or
 3792 (III) any attempt to commit any offense under Subsection (3)(a)(ii)(B)(I) or (II);
 3793 (C) the value of property is or exceeds \$500 but is less than \$1,500; or
 3794 (D) the actor has been previously convicted of a felony violation of any of the offenses
 3795 listed in Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if the prior offense was
 3796 committed within 10 years before the date of the current conviction or the date of the offense
 3797 upon which the current conviction is based;
 3798 (iii) a class A misdemeanor if:
 3799 (A) the value of the property stolen is or exceeds \$500 but is less than \$1,500; or
 3800 (B) the actor has been twice before convicted of any of the offenses listed in
 3801 Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if each prior offense was committed
 3802 within 10 years before the date of the current conviction or the date of the offense upon which
 3803 the current conviction is based; or
 3804 (iv) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 3805 theft is not an offense under Subsection (3)(a)(iii)(B).
 3806 (b) [~~An offense under Subsection (3)(a) is punishable as:~~ A violation of Subsection
 3807 (2)(b) is:
 3808 (i) a [~~felony of the~~] second degree felony if the value of the property wrongfully

3809 pledged is or exceeds \$5,000;

3810 (ii) a ~~[felony of the]~~ third degree felony if the value of the property wrongfully pledged
3811 is or exceeds \$1,500 but is less than \$5,000;

3812 (iii) a class A misdemeanor if the value of the property is or exceeds \$500, but is less
3813 than \$1,500 or the actor has been twice before convicted of theft, robbery, burglary with intent
3814 to commit theft, or unlawful dealing with property by a fiduciary; or

3815 (iv) a class B misdemeanor if the value of the property is less than \$500.

3816 (4) This section may not be construed to impose criminal or civil liability on any law
3817 enforcement officer acting within the scope of a criminal investigation.

3818 (5) The forfeiture of property under this section, including any seizure and disposition
3819 of the property and any related judicial or administrative proceeding, shall be conducted in
3820 accordance with Title 24, Forfeiture and Disposition of Property Act.

3821 Section 92. Section **76-6-514** is amended to read:

3822 **76-6-514. Unlawful influence of a contest.**

3823 ~~[A person is guilty of a felony of the third degree if:]~~

3824 (1) Terms defined in Section 76-1-101.5 apply to this section.

3825 (2) An actor commits unlawful influence of a contest if the actor:

3826 (a) ~~[With]~~ with a purpose to influence any participant or prospective participant not to
3827 give ~~[his]~~ the participant's or prospective participant's best efforts in a publicly exhibited
3828 contest, ~~[he]~~ confers or offers or agrees to confer any benefit upon or threatens any injury to a
3829 participant or prospective participant; ~~[or]~~

3830 ~~[(2)]~~ (b) ~~[With]~~ with a purpose to influence an official in a publicly exhibited contest to
3831 perform ~~[his]~~ the official's duties improperly, ~~[he]~~ confers or offers or agrees to confer any
3832 benefit upon or threatens any injury to such official; ~~[or]~~

3833 ~~[(3)]~~ (c) ~~[With]~~ with a purpose to influence the outcome of a publicly exhibited
3834 contest, ~~[he]~~ tampers with any person, animal, or thing contrary to the rules and usages
3835 purporting to govern the contest; or

3836 ~~[(4)]~~ (d) ~~[He]~~ knowingly solicits, accepts, or agrees to accept any benefit, the giving of
3837 which would be criminal under Subsection ~~[(1) or]~~ (2)(a) or (b).

3838 (3) A violation of Subsection (2) is a third degree felony.

3839 (4) This section may not be construed to impose criminal or civil liability on any law
3840 enforcement officer acting within the scope of a criminal investigation.

3841 (5) The forfeiture of property under this section, including any seizure and disposition
3842 of the property and any related judicial or administrative proceeding, shall be conducted in
3843 accordance with Title 24, Forfeiture and Disposition of Property Act.

3844 Section 93. Section **76-6-515** is amended to read:

3845 **76-6-515. Using or making slugs.**

3846 ~~[(1) A person is guilty of a class B misdemeanor if:]~~

3847 ~~[(a) With a purpose to defraud the supplier of property or a service offered or sold by~~
3848 ~~means of a coin machine, he inserts, deposits, or uses a slug in that machine; or]~~

3849 ~~[(b) He makes, possesses, or disposes of a slug with the purpose of enabling a person~~
3850 ~~to use it fraudulently in a coin machine.]~~

3851 ~~[(2)]~~ (1) (a) As used in this section:

3852 ~~[(a)]~~ (i) "Coin machine" means any mechanical or electronic device or receptacle
3853 designed to receive a coin or bill of a certain denomination, or a token made for the purpose,
3854 and, in return for the insertion or deposit thereof, automatically to offer, provide, assist in
3855 providing or permit the acquisition of property or a public or private service.

3856 ~~[(b)]~~ (ii) "Slug" means any object which, by virtue of its size, shape, or other quality, is
3857 capable of being inserted, deposited, or otherwise used in a coin machine as an improper
3858 substitute for a genuine coin, bill, or token.

3859 (b) Terms defined in Section 76-1-101.5 apply to this section.

3860 (2) An actor commits using or making slugs if the actor:

3861 (a) with a purpose to defraud the supplier of property or a service offered or sold by
3862 means of a coin machine, inserts, deposits, or uses a slug in that machine; or

3863 (b) makes, possesses, or disposes of a slug with the purpose of enabling a person to use
3864 it fraudulently in a coin machine.

3865 (3) A violation of Subsection (2) is a class B misdemeanor.

3866 (4) This section may not be construed to impose criminal or civil liability on any law
3867 enforcement officer acting within the scope of a criminal investigation.

3868 (5) The forfeiture of property under this section, including any seizure and disposition
3869 of the property and any related judicial or administrative proceeding, shall be conducted in
3870 accordance with Title 24, Forfeiture and Disposition of Property Act.

3871 Section 94. Section **76-6-516** is amended to read:

3872 **76-6-516. Fraudulent conveyance of marital real estate.**

3873 (1) [~~Any married man who~~] Terms defined in Section [76-1-101.5](#) apply to this section.

3874 (2) An actor commits fraudulent conveyance of marital real estate if the actor:

3875 (a) is married;

3876 (b) falsely represents [~~himself~~] the actor as unmarried; and [~~under such representation~~]

3877 (c) knowingly conveys or mortgages real estate [~~situate~~] situated in this state, without
3878 the assent or concurrence of [~~his wife~~] the actor's spouse when such consent or concurrence is
3879 necessary to relinquish [~~her~~] the spouse's inchoate statutory interest [~~therein, is guilty of a~~
3880 felony of the third degree].

3881 (3) A violation of Subsection (2) is a third degree felony.

3882 (4) This section may not be construed to impose criminal or civil liability on any law
3883 enforcement officer acting within the scope of a criminal investigation.

3884 (5) The forfeiture of property under this section, including any seizure and disposition
3885 of the property and any related judicial or administrative proceeding, shall be conducted in
3886 accordance with Title 24, Forfeiture and Disposition of Property Act.

3887 Section 95. Section **76-6-517** is amended to read:

3888 **76-6-517. Making a false credit report.**

3889 (1) [~~Any person who~~] Terms defined in Section [76-1-101.5](#) apply to this section.

3890 (2) An actor commits making a false credit report if the actor knowingly makes a
 3891 materially false or misleading written statement to obtain property or credit for himself or
 3892 another [is guilty of making a false credit report].

3893 ~~[(2)]~~ (3) [Making a false credit report] A violation of Subsection (2) is a class A
 3894 misdemeanor.

3895 (4) This section may not be construed to impose criminal or civil liability on any law
 3896 enforcement officer acting within the scope of a criminal investigation.

3897 (5) The forfeiture of property under this section, including any seizure and disposition
 3898 of the property and any related judicial or administrative proceeding, shall be conducted in
 3899 accordance with Title 24, Forfeiture and Disposition of Property Act.

3900 Section 96. Section **76-6-518** is amended to read:

3901 **76-6-518. Criminal simulation.**

3902 (1) ~~[A person is guilty of]~~ Terms defined in Section 76-1-101.5 apply to this section.

3903 (2) An actor commits criminal simulation if, with intent to defraud another, the actor:

3904 (a) ~~[he]~~ makes or alters an object in whole or in part so that it appears to have value
 3905 because of age, antiquity, rarity, source, or authorship that it does not have;

3906 (b) ~~[he]~~ sells, passes, or otherwise utters an object so made or altered;

3907 (c) ~~[he]~~ possesses an object so made or altered with intent to sell, pass, or otherwise
 3908 utter it; or

3909 (d) ~~[he]~~ authenticates or certifies an object so made or altered as genuine or as different
 3910 from what it is.

3911 ~~[(2)]~~ (3) [Criminal simulation] A violation of Subsection (2) is punishable as follows:

3912 (a) ~~[H]~~ if the value defrauded or intended to be defrauded is less than \$500, the offense
 3913 is a class B misdemeanor[-];

3914 (b) ~~[H]~~ if the value defrauded or intended to be defrauded is or exceeds \$500 but is less
 3915 than \$1,500, the offense is a class A misdemeanor[-];

3916 (c) ~~[H]~~ if the value defrauded or intended to be defrauded is or exceeds \$1,500 but is

3917 less than \$5,000, the offense is a third degree felony [~~of the third degree~~]; or

3918 (d) [~~H~~] if the value defrauded or intended to be defrauded is or exceeds \$5,000, the
3919 offense is a second degree felony [~~of the second degree~~].

3920 (4) This section may not be construed to impose criminal or civil liability on any law
3921 enforcement officer acting within the scope of a criminal investigation.

3922 (5) The forfeiture of property under this section, including any seizure and disposition
3923 of the property and any related judicial or administrative proceeding, shall be conducted in
3924 accordance with Title 24, Forfeiture and Disposition of Property Act.

3925 Section 97. Section **76-6-520** is amended to read:

3926 **76-6-520. Criminal usury.**

3927 (1) [~~A person is guilty of criminal usury when he~~] Terms defined in Section [76-1-101.5](#)
3928 apply to this section.

3929 (2) An actor commits criminal usury if the actor knowingly engages in, or directly or
3930 indirectly provides financing for, the business of making loans at a higher rate of interest or
3931 consideration therefor than is authorized by law.

3932 [~~(2)~~] (3) [~~Criminal usury is a felony of the third degree~~] A violation of Subsection (2) is
3933 a third degree felony.

3934 (4) This section may not be construed to impose criminal or civil liability on any law
3935 enforcement officer acting within the scope of a criminal investigation.

3936 (5) The forfeiture of property under this section, including any seizure and disposition
3937 of the property and any related judicial or administrative proceeding, shall be conducted in
3938 accordance with Title 24, Forfeiture and Disposition of Property Act.

3939 Section 98. Section **76-6-521** is amended to read:

3940 **76-6-521. Insurance fraud.**

3941 (1) (a) [~~A person~~] As used in this section, "runner" means the same as that term is
3942 defined in Section [31A-31-102](#).

3943 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

3944 (2) An actor commits a fraudulent insurance act if ~~[that person]~~ the actor with intent to
3945 deceive or defraud:

3946 (a) presents or causes to be presented any oral or written statement or representation
3947 knowing that the statement or representation contains false or fraudulent information
3948 concerning any fact material to an application for the issuance or renewal of an insurance
3949 policy, certificate, or contract, as part of or in support of:

3950 (i) obtaining an insurance policy the insurer would otherwise not issue on the basis of
3951 underwriting criteria applicable to the person;

3952 (ii) a scheme or artifice to avoid paying the premium that an insurer charges on the
3953 basis of underwriting criteria applicable to the person; or

3954 (iii) a scheme or artifice to file an insurance claim for a loss that has already occurred;

3955 (b) presents, or causes to be presented, any oral or written statement or representation:

3956 (i) (A) as part of or in support of a claim for payment or other benefit pursuant to an
3957 insurance policy, certificate, or contract; or

3958 (B) in connection with any civil claim asserted for recovery of damages for personal or
3959 bodily injuries or property damage; and

3960 (ii) knowing that the statement or representation contains false, incomplete, or
3961 fraudulent information concerning any fact or thing material to the claim;

3962 (c) knowingly accepts a benefit from proceeds derived from a fraudulent insurance act;

3963 (d) intentionally, knowingly, or recklessly devises a scheme or artifice to obtain fees
3964 for professional services, or anything of value by means of false or fraudulent pretenses,
3965 representations, promises, or material omissions;

3966 (e) knowingly employs, uses, or acts as a runner~~[, as defined in Section 31A-31-102,]~~
3967 for the purpose of committing a fraudulent insurance act;

3968 (f) knowingly assists, abets, solicits, or conspires with another to commit a fraudulent
3969 insurance act;

3970 (g) knowingly supplies false or fraudulent material information in any document or

3971 statement required by the Department of Insurance; or

3972 (h) knowingly fails to forward a premium to an insurer in violation of Section

3973 31A-23a-411.1.

3974 ~~[(2)]~~ (3) (a) A violation of Subsection ~~[(1)(a)(i)]~~ (2)(a)(i) is a class A misdemeanor.

3975 (b) A violation of Subsections ~~[(1)(a)(ii)]~~ (2)(a)(ii) or ~~[(1)(b)]~~ (2)(b) through ~~[(1)(h)]~~

3976 (2)(h) is ~~[punishable as in the manner prescribed by Section 76-10-1801 for communication~~
3977 ~~fraud for property of like value.];~~

3978 (i) a class B misdemeanor when the value of the property, money, or thing obtained or
3979 sought to be obtained is less than \$500;

3980 (ii) a class A misdemeanor when the value of the property, money, or thing obtained or
3981 sought to be obtained is or exceeds \$500 but is less than \$1,500;

3982 (iii) a third degree felony when the value of the property, money, or thing obtained or
3983 sought to be obtained is or exceeds \$1,500 but is less than \$5,000; or

3984 (iv) a second degree felony when the value of the property, money, or thing obtained or
3985 sought to be obtained is or exceeds \$5,000.

3986 (c) A violation of Subsection ~~[(1)(a)(iii)]~~ (2)(a)(iii) is:

3987 (i) ~~[is]~~ a class A misdemeanor if the value of the loss is less than \$1,500 or unable to be
3988 determined; ~~[or]~~

3989 (ii) ~~[if the value of the loss is \$1,500 or more, is punishable as in the manner prescribed~~
3990 ~~by Section 76-10-1801 for communication fraud for property of like value.]~~ a third degree
3991 felony when the value of the loss is or exceeds \$1,500 but is less than \$5,000; or

3992 (iii) a second degree felony when the value of the loss is or exceeds \$5,000.

3993 ~~[(3)]~~ (4) A corporation or association is guilty of the offense of insurance fraud under
3994 the same conditions as those set forth in Section 76-2-204.

3995 ~~[(4)]~~ (5) The determination of the degree of any offense under Subsections ~~[(1)(a)(ii)]~~
3996 (2)(a)(ii) and ~~[(1)(b)]~~ (2)(b) through ~~[(1)(h)]~~ (2)(h) shall be measured by the total value of all
3997 property, money, or other things obtained or sought to be obtained by the fraudulent insurance

3998 act or acts described in Subsections ~~[(1)(a)(ii)]~~ (2)(a)(ii) and ~~[(1)(b)]~~ (2)(b) through ~~[(1)(h)]~~
3999 (2)(h).

4000 (6) This section may not be construed to impose criminal or civil liability on any law
4001 enforcement officer acting within the scope of a criminal investigation.

4002 (7) The forfeiture of property under this section, including any seizure and disposition
4003 of the property and any related judicial or administrative proceeding, shall be conducted in
4004 accordance with Title 24, Forfeiture and Disposition of Property Act.

4005 Section 99. Section **76-6-522** is amended to read:

4006 **76-6-522. Equity skimming of a vehicle.**

4007 (1) (a) As used in this section:

4008 (i) "Actor" means a broker, dealer, or a person in collusion with a dealer or broker.

4009 ~~[(a)]~~ (ii) "Broker" means any person who, for compensation of any kind, arranges for
4010 the sale, lease, sublease, or transfer of a vehicle.

4011 ~~[(b)]~~ (iii) "Dealer" means any person engaged in the business of selling, leasing, or
4012 exchanging vehicles for compensation of any kind.

4013 ~~[(c)]~~ (iv) "Lease" means any grant of use or possession of a vehicle for consideration,
4014 with or without an option to buy.

4015 ~~[(d)]~~ (v) "Security interest" means an interest in a vehicle that secures payment or
4016 performance of an obligation.

4017 ~~[(e)]~~ (vi) "Transfer" means any delivery or conveyance of a vehicle to another from one
4018 person to another.

4019 ~~[(f)]~~ (vii) "Vehicle" means every device in, upon, or by which any person or property is
4020 or may be transported or drawn upon a highway, or through the air or water, or over land and
4021 includes a manufactured home or mobile home as defined in Section [41-1a-102](#).

4022 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

4023 (2) ~~[A dealer or broker or any other person in collusion with a dealer or broker is guilty~~
4024 ~~of]~~ An actor commits equity skimming of a vehicle if ~~he~~ the actor:

4025 (a) (i) transfers or arranges the transfer of a vehicle for consideration or profit~~[-when~~
4026 ~~he]; and~~

4027 (ii) has not first obtained written authorization of the lessor or holder of the security
4028 interest; and

4029 (b) knows or should have known the vehicle is subject to a lease or security interest~~[-~~
4030 ~~without first obtaining written authorization of the lessor or holder of the security interest].~~

4031 (3) ~~[Equity skimming of a vehicle]~~ A violation of Subsection (2) is a third degree
4032 felony.

4033 (4) It is a defense to ~~[the crime of equity skimming of a vehicle if the accused]~~ a
4034 violation of Subsection (2) if the defendant proves by a preponderance of the evidence that the
4035 lease obligation or security interest has been satisfied within 30 days following the transfer of
4036 the vehicle.

4037 (5) This section may not be construed to impose criminal or civil liability on any law
4038 enforcement officer acting within the scope of a criminal investigation.

4039 (6) The forfeiture of property under this section, including any seizure and disposition
4040 of the property and any related judicial or administrative proceeding, shall be conducted in
4041 accordance with Title 24, Forfeiture and Disposition of Property Act.

4042 Section 100. Section **76-6-523** is amended to read:

4043 **76-6-523. Obstruction of the leasing of real property for natural resource or**
4044 **agricultural production.**

4045 (1) (a) As used in this section:

4046 ~~[(a)]~~ (i) "Competitive process" includes public auction or other public competitive
4047 bidding process.

4048 ~~[(b)]~~ (ii) "Natural resource or agricultural production" means:

4049 ~~[(i)]~~ (A) the extraction or production of oil, gas, hydrocarbons, or other minerals;

4050 ~~[(ii)]~~ (B) production for commercial purposes of crops, livestock, and livestock
4051 products, including grazing; or

4052 ~~[(iii)]~~ (C) activities similar in purpose to those listed in Subsections ~~[(1)(b)(i) and (ii)]~~
 4053 ~~(1)(a)(ii)(A) and (B).~~

4054 (b) Terms defined in Section 76-1-101.5 apply to this section.

4055 (2) ~~[A person is guilty of]~~ An actor commits obstruction of the leasing of real property
 4056 for natural resource or agricultural production if the ~~[person]~~ actor:

4057 (a) bids for a lease as part of a competitive process for the lease;

4058 (b) does not intend to pay for the lease at the time the ~~[person]~~ actor makes the bid
 4059 described in Subsection (2)(a); and

4060 (c) does not pay the lessor in full for the lease as required by the lease agreement.

4061 (3) ~~[The offense of obstruction of the leasing of real property for natural resource or~~
 4062 ~~agricultural production]~~ A violation of Subsection (2) is:

4063 (a) a third degree felony; and

4064 (b) subject to a minimum fine of not less than \$7,500.

4065 (4) This section may not be construed to impose criminal or civil liability on any law
 4066 enforcement officer acting within the scope of a criminal investigation.

4067 (5) The forfeiture of property under this section, including any seizure and disposition
 4068 of the property and any related judicial or administrative proceeding, shall be conducted in
 4069 accordance with Title 24, Forfeiture and Disposition of Property Act.

4070 Section 101. Section **76-6-524** is amended to read:

4071 **76-6-524. Falsifying information for preconstruction lien purposes.**

4072 (1) ~~[A person who knowingly falsifies]~~ Terms defined in Section 76-1-101.5 apply to
 4073 this section.

4074 (2) An actor commits falsifying information for the purpose of obtaining priority of a
 4075 preconstruction lien if the actor knowingly falsifies information for the purpose of obtaining
 4076 priority of a preconstruction lien under Title 38, Chapter 1a, Preconstruction and Construction
 4077 Liens~~[, is guilty of a class B misdemeanor].~~

4078 (3) A violation of Subsection (2) is a class B misdemeanor.

4079 (4) This section may not be construed to impose criminal or civil liability on any law
4080 enforcement officer acting within the scope of a criminal investigation.

4081 (5) The forfeiture of property under this section, including any seizure and disposition
4082 of the property and any related judicial or administrative proceeding, shall be conducted in
4083 accordance with Title 24, Forfeiture and Disposition of Property Act.

4084 Section 102. Section **76-6-601** is amended to read:

4085 **76-6-601. Definitions.**

4086 As used in this [chapter] part:

4087 (1) "Merchandise" means any personal property displayed, held, or offered for sale by a
4088 merchant.

4089 (2) "Merchant" means an owner or operator of any retail mercantile establishment
4090 where merchandise is displayed, held, or offered for sale and includes the merchant's
4091 employees, servants, or agents.

4092 (3) "Minor" means any unmarried person under 18 years of age.

4093 (4) "Peace officer" has the same meaning as provided in Title 53, Chapter 13, Peace
4094 Officer Classifications.

4095 (5) "Premises of a retail mercantile establishment" includes, but is not limited to, the
4096 retail mercantile establishment; any common use areas in shopping centers and all parking lots
4097 or areas set aside for the benefit of those patrons of the retail mercantile establishment.

4098 (6) "Retail mercantile establishment" means any place where merchandise is displayed,
4099 held, or offered for sale to the public.

4100 (7) "Retail value" means the merchant's stated or advertised price of the merchandise.

4101 (8) "Shopping cart" means those push carts of the types which are commonly provided
4102 by grocery stores, drug stores, or other mercantile establishments, or markets for the use of the
4103 public in transporting commodities in stores and markets from the store to a place outside the
4104 store.

4105 (9) "Under-ring" means to cause the cash register or other sales recording device to

4106 reflect less than the retail value of the merchandise.

4107 Section 103. Section **76-6-602** is amended to read:

4108 **76-6-602. Retail theft.**

4109 [~~A person commits the offense of retail theft when he knowingly:~~]

4110 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-601](#) apply to this section.

4111 (2) An actor commits retail theft if the actor knowingly:

4112 [(1)] (a) [~~Takes~~] takes possession of, conceals, carries away, transfers or causes to be
4113 carried away or transferred, any merchandise displayed, held, stored₂ or offered for sale in a
4114 retail mercantile establishment with the intention of:

4115 (i) retaining [~~such~~] the merchandise; or [~~with the intention of~~]

4116 (ii) depriving the merchant permanently of the possession, use or benefit of such
4117 merchandise without paying the retail value of [~~such~~] the merchandise; [~~or~~]

4118 [(2)] (b) (i) [~~Alters,~~] alters, transfers, or removes any label, price tag, marking, indicia
4119 of value₂ or any other markings which aid in determining value of any merchandise displayed,
4120 held, stored₂ or offered for sale, in a retail mercantile establishment; and

4121 (ii) attempts to purchase [~~such~~] the merchandise described in Subsection (2)(b)(i)
4122 personally or in consort with another at less than the retail value with the intention of depriving
4123 the merchant of the retail value of [~~such~~] the merchandise; [~~or~~]

4124 [(3)] (c) [~~Transfers~~] transfers any merchandise displayed, held, stored₂ or offered for
4125 sale in a retail mercantile establishment from the container in or on which [~~such~~] the
4126 merchandise is displayed to any other container with the intention of depriving the merchant of
4127 the retail value of [~~such~~] the merchandise; [~~or~~]

4128 [(4)] (d) [~~Under-rings~~] under-rings with the intention of depriving the merchant of the
4129 retail value of the merchandise; or

4130 [(5)] (e) [~~Removes~~] removes a shopping cart from the premises of a retail mercantile
4131 establishment with the intent of depriving the merchant of the possession, use₂ or benefit of
4132 [~~such~~] the shopping cart.

4133 (3) A violation of Subsection (2) is:
4134 (a) a second degree felony if the:
4135 (i) value of the merchandise or shopping cart is or exceeds \$5,000;
4136 (ii) merchandise stolen is a firearm or an operable motor vehicle; or
4137 (b) a third degree felony if:
4138 (i) the value of the merchandise is or exceeds \$1,500 but is less than \$5,000;
4139 (ii) the merchandise is a catalytic converter as defined under Section [76-6-1402](#);
4140 (iii) the value of the merchandise or shopping cart is or exceeds \$500 and the actor has
4141 been twice before convicted of any of the following offenses, if each prior offense was
4142 committed within 10 years before the date of the current conviction or the date of the offense
4143 upon which the current conviction is based and at least one of those convictions is for a class A
4144 misdemeanor:
4145 (A) any theft, any robbery, or any burglary with intent to commit theft;
4146 (B) any offense under Part 5, Fraud; or
4147 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);
4148 (iv) (A) the value of merchandise or shopping cart is or exceeds \$500 but is less than
4149 \$1,500;
4150 (B) the theft occurs in a retail mercantile establishment or on the premises of a retail
4151 mercantile establishment where the offender has committed any theft within the past five years;
4152 and
4153 (C) the offender has received written notice from the merchant prohibiting the offender
4154 from entering the retail mercantile establishment or premises of a retail mercantile
4155 establishment pursuant to Subsection [78B-3-108\(4\)](#); or
4156 (v) the actor has been previously convicted of a felony violation of any of the offenses
4157 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
4158 within 10 years before the date of the current conviction or the date of the offense upon which
4159 the current conviction is based;

- 4160 (c) a class A misdemeanor if:
- 4161 (i) the value of the merchandise or shopping cart stolen is or exceeds \$500 but is less
- 4162 than \$1,500;
- 4163 (ii) (A) the value of merchandise or shopping cart is less than \$500;
- 4164 (B) the theft occurs in a retail mercantile establishment or premises of a retail
- 4165 mercantile establishment where the offender has committed any theft within the past five years;
- 4166 and
- 4167 (C) the offender has received written notice from the merchant prohibiting the offender
- 4168 from entering the retail mercantile establishment or premises of a retail mercantile
- 4169 establishment pursuant to Subsection [78B-3-108\(4\)](#); or
- 4170 (iii) the actor has been twice before convicted of any of the offenses listed in
- 4171 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
- 4172 years before the date of the current conviction or the date of the offense upon which the current
- 4173 conviction is based; or
- 4174 (d) a class B misdemeanor if the value of the merchandise or shopping cart stolen is
- 4175 less than \$500 and the theft is not an offense under Subsection (3)(c).
- 4176 Section 104. Section **76-6-608** is amended to read:
- 4177 **76-6-608. Theft detection shielding devices prohibited.**
- 4178 (1) ~~[A person may not]~~ Terms defined in Sections [76-1-101.5](#) and [76-6-601](#) apply to
- 4179 this section.
- 4180 (2) An actor commits the unlawful shielding of a theft detection device if the actor
- 4181 knowingly:
- 4182 (a) ~~[make or possess]~~ makes or possesses any container or device used for, intended for
- 4183 use for, or represented as having the purpose of shielding merchandise from any electronic or
- 4184 magnetic theft alarm sensor, with the intent to commit a theft of merchandise;
- 4185 (b) ~~[sell, offer to sell, advertise, give, transport, or otherwise transfer]~~ sells, offers to
- 4186 sell, advertises, gives, transports, or otherwise transfers to another any container or device

4187 intended for use for or represented as having the purpose of shielding merchandise from any
4188 electronic or magnetic theft alarm sensor;

4189 (c) [~~possess~~] possesses any tool or instrument designed to remove any theft detection
4190 device from any merchandise, with the intent to use the tool or instrument to remove any theft
4191 detection device from any merchandise without the permission of the merchant or the person
4192 owning or in possession of the merchandise; or

4193 (d) intentionally [~~remove~~] removes a theft detection device from merchandise prior to
4194 purchase and without the permission of the merchant.

4195 [~~(2)~~] (3) (a) A violation of Subsection (1)(a), (b), or (c) is a class A misdemeanor.

4196 (b) A violation of Subsection [~~(1)(d)~~] (2)(d) is a:

4197 (i) class B misdemeanor if the value of the merchandise from which the theft detection
4198 device is removed is less than \$500; or

4199 (ii) class A misdemeanor if the value of the merchandise from which the theft detection
4200 device is removed is or exceeds \$500.

4201 [~~(3)~~] (4) A violation of Subsection [~~(1)~~] (2) is a separate offense from any offense
4202 listed in [~~Title 76, Chapter 6, Part 4, Theft~~] Part 4, Theft, or Part 6, Retail Theft.

4203 [~~(4)~~] (5) Criminal prosecutions under this section do not affect any person's right of
4204 civil action for redress for damages suffered as a result of any violation of this section.

4205 Section 105. Section **76-6-703** is amended to read:

4206 **76-6-703. Unlawful computer technology access or action or denial of service**
4207 **attack.**

4208 [~~(1) It is unlawful for a person to:~~]

4209 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-702](#) apply to this section.

4210 (2) An actor commits unlawful computer technology access or action or denial of
4211 service attack if the actor:

4212 (a) without authorization, or in excess of the [~~person's~~] actor's authorization, [~~access or~~
4213 ~~attempt~~] accesses or attempts to access computer technology if the access or attempt to access

4214 results in:

4215 (i) the alteration, damage, destruction, copying, transmission, discovery, or disclosure
4216 of computer technology;

4217 (ii) interference with or interruption of:

4218 (A) the lawful use of computer technology; or

4219 (B) the transmission of data;

4220 (iii) physical damage to or loss of real, personal, or commercial property;

4221 (iv) audio, video, or other surveillance of another person; or

4222 (v) economic loss to any person or entity;

4223 (b) after accessing computer technology that the [person] actor is authorized to access,
4224 knowingly ~~[take or attempt]~~ takes or attempts to take unauthorized or unlawful action that
4225 results in:

4226 (i) the alteration, damage, destruction, copying, transmission, discovery, or disclosure
4227 of computer technology;

4228 (ii) interference with or interruption of:

4229 (A) the lawful use of computer technology; or

4230 (B) the transmission of data;

4231 (iii) physical damage to or loss of real, personal, or commercial property;

4232 (iv) audio, video, or other surveillance of another person; or

4233 (v) economic loss to any person or entity; or

4234 (c) knowingly ~~[engage]~~ engages in a denial of service attack.

4235 ~~[(2) A person who violates Subsection (1) is guilty of:]~~

4236 (3) A violation of Subsection (2) is:

4237 (a) a class B misdemeanor ~~[when]~~ if:

4238 (i) the economic loss or other loss or damage caused or the value of the money,
4239 property, or benefit obtained or sought to be obtained is less than \$500; or

4240 (ii) the information obtained is not confidential;

4241 (b) a class A misdemeanor [~~when~~] if the economic loss or other loss or damage caused
4242 or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds
4243 \$500 but is less than \$1,500;

4244 (c) a third degree felony [~~when~~] if:

4245 (i) the economic loss or other loss or damage caused or the value of the money,
4246 property, or benefit obtained or sought to be obtained is or exceeds \$1,500 but is less than
4247 \$5,000;

4248 (ii) the property or benefit obtained or sought to be obtained is a license or entitlement;

4249 (iii) the damage is to the license or entitlement of another person;

4250 (iv) the information obtained is confidential or identifying information; or

4251 (v) in gaining access the actor breaches or breaks through a security system; or

4252 (d) a second degree felony [~~when~~] if the economic loss or other loss or damage caused
4253 or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds
4254 \$5,000[~~;~~or].

4255 [~~(e) a third degree felony when:~~]

4256 [~~(i) the property or benefit obtained or sought to be obtained is a license or
4257 entitlement;~~]

4258 [~~(ii) the damage is to the license or entitlement of another person;~~]

4259 [~~(iii) the information obtained is confidential or identifying information; or~~]

4260 [~~(iv) in gaining access the person breaches or breaks through a security system.]~~

4261 [~~(3)(a) A person who intentionally or knowingly and without authorization gains or
4262 attempts to gain access to a computer, computer network, computer property, or computer
4263 system under circumstances not otherwise constituting an offense under this section is guilty of
4264 a class B misdemeanor.]~~

4265 [~~(b) Notwithstanding Subsection (3)(a), a retailer that uses an electronic product
4266 identification or tracking system, or other technology, to identify, track, or price goods is not
4267 guilty of a violation of Subsection (3)(a) if the equipment designed to read the electronic~~

4268 ~~product identification or tracking system data and used by the retailer to identify, track, or price~~
4269 ~~goods is located within the retailer's location.]~~

4270 ~~[(4) (a) A person who, with intent that electronic communication harassment occur,~~
4271 ~~discloses or disseminates another person's identifying information with the expectation that~~
4272 ~~others will further disseminate or use the person's identifying information is subject to the~~
4273 ~~penalties outlined in Subsection (4)(b).]~~

4274 ~~[(b) If the disclosure or dissemination of another person's identifying information~~
4275 ~~results in electronic communication harassment, as described in Section 76-9-201, of the~~
4276 ~~person whose identifying information is disseminated, the person disseminating the~~
4277 ~~information is guilty of:]~~

4278 ~~[(i) a class B misdemeanor if the person whose identifying information is disseminated~~
4279 ~~is an adult; or]~~

4280 ~~[(ii) a class A misdemeanor if the person whose identifying information is~~
4281 ~~disseminated is a minor.]~~

4282 ~~[(c) A second offense under Subsection (4)(b)(i) is a class A misdemeanor.]~~

4283 ~~[(d) A second offense under Subsection (4)(b)(ii), and a third or subsequent offense~~
4284 ~~under this Subsection (4)(b), is a third degree felony.]~~

4285 ~~[(5) A person who uses or knowingly allows another person to use any computer,~~
4286 ~~computer network, computer property, or computer system, program, or software to devise or~~
4287 ~~execute any artifice or scheme to defraud or to obtain money, property, services, or other things~~
4288 ~~of value by false pretenses, promises, or representations, is guilty of an offense based on the~~
4289 ~~value of the money, property, services, or things of value, in the degree set forth in Subsection~~
4290 ~~76-10-1801(1).]~~

4291 ~~[(6) A person is guilty of a third degree felony if the person intentionally or knowingly,~~
4292 ~~and without lawful authorization, interferes with or interrupts critical infrastructure.]~~

4293 ~~[(7)] (4) (a) It is an affirmative defense [to Subsection (1), (2), or (3) that a person] that~~
4294 ~~the actor obtained access or attempted to obtain access:~~

4295 ~~[(a)]~~ (i) in response to, and for the purpose of protecting against or investigating, a
4296 prior attempted or successful breach of security of computer technology whose security the
4297 ~~[person]~~ actor is authorized or entitled to protect, and the access attempted or obtained was no
4298 greater than reasonably necessary for that purpose; or

4299 ~~[(b)]~~ (ii) pursuant to a search warrant or a lawful exception to the requirement to obtain
4300 a search warrant.

4301 (b) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing
4302 in this section may be construed to impose liability or culpability on, an interactive computer
4303 service for content provided by another person.

4304 (c) This section does not affect, limit, or apply to any activity or conduct that is
4305 protected by the constitution or laws of this state, or by the constitution or laws of the United
4306 States.

4307 ~~[(8)]~~ (5) (a) An interactive computer service is not guilty of violating this section if a
4308 person violates this section using the interactive computer service and the interactive computer
4309 service did not knowingly assist the person to commit the violation.

4310 (b) A service provider is not guilty of violating this section for:

4311 (i) action taken in relation to a customer of the service provider, for a legitimate
4312 business purpose, to install software on, monitor, or interact with the customer's Internet or
4313 other network connection, service, or computer for network or computer security purposes,
4314 authentication, diagnostics, technical support, maintenance, repair, network management,
4315 updates of computer software or system firmware, or remote system management; or

4316 (ii) action taken, including scanning and removing computer software, to detect or
4317 prevent the following:

4318 (A) unauthorized or fraudulent use of a network, service, or computer software;

4319 (B) illegal activity; or

4320 (C) infringement of intellectual property rights.

4321 ~~[(9) Subsections (4)(a) and (b) do not apply to a person who provides information in~~

4322 ~~conjunction with a report under Title 34A, Chapter 6, Utah Occupational Safety and Health~~
4323 ~~Act, or Title 67, Chapter 21, Utah Protection of Public Employees Act.]~~

4324 ~~[(10) In accordance with 47 U.S.C.A. Sec. 230, this section may not apply to, and~~
4325 ~~nothing in this section may be construed to impose liability or culpability on, an interactive~~
4326 ~~computer service for content provided by another person.]~~

4327 ~~[(11) This section does not affect, limit, or apply to any activity or conduct that is~~
4328 ~~protected by the constitution or laws of this state or by the constitution or laws of the United~~
4329 ~~States.]~~

4330 Section 106. Section **76-6-703.1** is enacted to read:

4331 **76-6-703.1. Unlawful disclosure of personal information.**

4332 (1) (a) As used in this section, "electronic communication harassment" means an
4333 offense under Section [76-9-201](#).

4334 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-702](#) apply to this section.

4335 (2) An actor commits unlawful disclosure of personal information if:

4336 (a) with intent that electronic communication harassment occur, the actor discloses or
4337 disseminates another person's identifying information with the expectation that others will
4338 further disseminate or use the person's identifying information; and

4339 (b) the disclosure or dissemination of the other person's identifying information results
4340 in electronic communication harassment.

4341 (3) (a) If the person whose identifying information is disseminated is an adult, a
4342 violation of Subsection (2) is:

4343 (i) a class B misdemeanor on the first offense;

4344 (ii) a class A misdemeanor on the second offense; or

4345 (iii) a third degree felony on a third or subsequent offense.

4346 (b) If the person whose identifying information is disseminated is a minor, a violation
4347 of Subsection (2) is:

4348 (i) a class A misdemeanor on the first offense; or

4349 (ii) a third degree felony on the second or subsequent offense.

4350 (4) (a) This section does not apply to an actor who provides information in conjunction
4351 with a report under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, or Title 67,
4352 Chapter 21, Utah Protection of Public Employees Act.

4353 (b) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing
4354 in this section may be construed to impose liability or culpability on, an interactive computer
4355 service for content provided by another person.

4356 (c) This section does not affect, limit, or apply to any activity or conduct that is
4357 protected by the constitution or laws of this state, or by the constitution or laws of the United
4358 States.

4359 (5) (a) An interactive computer service is not guilty of violating this section if an actor
4360 violates this section using the interactive computer service and the interactive computer service
4361 did not knowingly assist the actor to commit the violation.

4362 (b) A service provider is not guilty of violating this section for:

4363 (i) action taken in relation to a customer of the service provider, for a legitimate
4364 business purpose, to install software on, monitor, or interact with the customer's Internet or
4365 other network connection, service, or computer for network or computer security purposes,
4366 authentication, diagnostics, technical support, maintenance, repair, network management,
4367 updates of computer software or system firmware, or remote system management; or

4368 (ii) action taken, including scanning and removing computer software, to detect or
4369 prevent the following:

4370 (A) unauthorized or fraudulent use of a network, service, or computer software;

4371 (B) illegal activity; or

4372 (C) infringement of intellectual property rights.

4373 Section 107. Section **76-6-703.3** is enacted to read:

4374 **76-6-703.3. Unlawful use of technology to defraud.**

4375 (1) (a) As used in this section, "sensitive personal identifying information" means the

4376 same as that term is defined in Section [76-10-1801](#).

4377 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-702](#) apply to this section.

4378 (2) An actor commits unlawful use of technology to defraud if the actor uses or
4379 knowingly allows another person to use a computer, computer network, computer property, or
4380 computer system, program, or software to devise or execute any artifice or scheme to defraud
4381 or to obtain money, property, a service, or other thing of value by a false pretense, promise, or
4382 representation.

4383 (3) A violation of Subsection (2) is:

4384 (a) a class B misdemeanor if the value of the money, property, service, or thing
4385 obtained or sought to be obtained is less than \$500;

4386 (b) a class A misdemeanor if the value of the money, property, service, or thing
4387 obtained or sought to be obtained is or exceeds \$500 but is less than \$1,500;

4388 (c) a third degree felony if the value of the money, property, service, or thing obtained
4389 or sought to be obtained is or exceeds \$1,500 but is less than \$5,000; or

4390 (d) a second degree felony if:

4391 (i) the value of the money, property, service, or thing obtained or sought to be obtained
4392 is or exceeds \$5,000; or

4393 (ii) the object or purpose of the artifice or scheme to defraud is the obtaining of
4394 sensitive personal identifying information, regardless of the value.

4395 (4) (a) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and
4396 nothing in this section may be construed to impose liability or culpability on, an interactive
4397 computer service for content provided by another person.

4398 (b) This section does not affect, limit, or apply to any activity or conduct that is
4399 protected by the constitution or laws of this state, or by the constitution or laws of the United
4400 States.

4401 (5) (a) An interactive computer service is not guilty of violating this section if a person
4402 violates this section using the interactive computer service and the interactive computer service

4403 did not knowingly assist the person to commit the violation.

4404 (b) A service provider is not guilty of violating this section for:

4405 (i) action taken in relation to a customer of the service provider, for a legitimate
4406 business purpose, to install software on, monitor, or interact with the customer's Internet or
4407 other network connection, service, or computer for network or computer security purposes,
4408 authentication, diagnostics, technical support, maintenance, repair, network management,
4409 updates of computer software or system firmware, or remote system management; or

4410 (ii) action taken, including scanning and removing computer software, to detect or
4411 prevent the following:

4412 (A) unauthorized or fraudulent use of a network, service, or computer software;

4413 (B) illegal activity; or

4414 (C) infringement of intellectual property rights.

4415 Section 108. Section **76-6-703.5** is enacted to read:

4416 **76-6-703.5. Interference or interruption of critical infrastructure.**

4417 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-702](#) apply to this section.

4418 (2) An actor commits interference or interruption of critical infrastructure if the actor
4419 intentionally or knowingly, and without lawful authorization, interferes with or interrupts
4420 critical infrastructure.

4421 (3) A violation of Subsection (2) is a third degree felony.

4422 (4) (a) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and
4423 nothing in this section may be construed to impose liability or culpability on, an interactive
4424 computer service for content provided by another person.

4425 (b) This section does not affect, limit, or apply to any activity or conduct that is
4426 protected by the constitution or laws of this state, or by the constitution or laws of the United
4427 States.

4428 (5) (a) An interactive computer service is not guilty of violating this section if a person
4429 violates this section using the interactive computer service and the interactive computer service

4430 did not knowingly assist the person to commit the violation.

4431 (b) A service provider is not guilty of violating this section for:

4432 (i) action taken in relation to a customer of the service provider, for a legitimate
4433 business purpose, to install software on, monitor, or interact with the customer's Internet or
4434 other network connection, service, or computer for network or computer security purposes,
4435 authentication, diagnostics, technical support, maintenance, repair, network management,
4436 updates of computer software or system firmware, or remote system management; or

4437 (ii) action taken, including scanning and removing computer software, to detect or
4438 prevent the following:

4439 (A) unauthorized or fraudulent use of a network, service, or computer software;

4440 (B) illegal activity; or

4441 (C) infringement of intellectual property rights.

4442 Section 109. Section **76-6-703.7** is enacted to read:

4443 **76-6-703.7. Unlawful computer access.**

4444 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-702](#) apply to this section.

4445 (2) An actor commits unlawful computer access if:

4446 (a) the actor intentionally or knowingly, and without authorization, gains or attempts to
4447 gain access to a computer, computer network, computer property, or computer system; and

4448 (b) the circumstances of the violation of Subsection (2)(a) do not constitute an offense
4449 under Section [76-6-703](#), [76-6-703.1](#), [76-6-703.3](#), or [76-6-703.5](#).

4450 (3) A violation of Subsection (2) is a class B misdemeanor.

4451 (4) (a) Notwithstanding Subsection (2), a retailer that uses an electronic product
4452 identification or tracking system, or other technology, to identify, track, or price goods is not
4453 guilty of a violation of this section if the equipment designed to read the electronic product
4454 identification or tracking system data and used by the retailer to identify, track, or price goods
4455 is located within the retailer's location.

4456 (b) It is an affirmative defense to a violation under this section that the actor obtained

4457 access or attempted to obtain access:

4458 (i) in response to, and for the purpose of protecting against or investigating, a prior
4459 attempted or successful breach of security of computer technology whose security the actor is
4460 authorized or entitled to protect, and the access attempted or obtained was no greater than
4461 reasonably necessary for that purpose; or

4462 (ii) pursuant to a search warrant or a lawful exception to the requirement to obtain a
4463 search warrant.

4464 (c) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing
4465 in this section may be construed to impose liability or culpability on, an interactive computer
4466 service for content provided by another person.

4467 (d) This section does not affect, limit, or apply to any activity or conduct that is
4468 protected by the constitution or laws of this state, or by the constitution or laws of the United
4469 States.

4470 (5) (a) An interactive computer service is not guilty of violating this section if an actor
4471 violates this section using the interactive computer service and the interactive computer service
4472 did not knowingly assist the actor to commit the violation.

4473 (b) A service provider is not guilty of violating this section for:

4474 (i) action taken in relation to a customer of the service provider, for a legitimate
4475 business purpose, to install software on, monitor, or interact with the customer's Internet or
4476 other network connection, service, or computer for network or computer security purposes,
4477 authentication, diagnostics, technical support, maintenance, repair, network management,
4478 updates of computer software or system firmware, or remote system management; or

4479 (ii) action taken, including scanning and removing computer software, to detect or
4480 prevent the following:

4481 (A) unauthorized or fraudulent use of a network, service, or computer software;

4482 (B) illegal activity; or

4483 (C) infringement of intellectual property rights.

4484 Section 110. Section **76-6-705** is amended to read:

4485 **76-6-705. Reporting violations.**

4486 (1) Each person who has reason to believe that ~~[the provisions]~~ a provision of Section
4487 76-6-703 ~~[are being or have]~~, 76-6-703.1, 76-6-703.3, 76-6-703.5, or 76-6-703.7 is being or
4488 has been violated shall report the suspected violation to:

4489 (a) the attorney general, or county attorney, or, if within a prosecution district, the
4490 district attorney of the county or prosecution district in which part or all of the ~~[violations]~~
4491 violation occurred; or

4492 (b) a state or local law enforcement agency.

4493 (2) Subsection (1) does not apply to the extent that the person is prohibited from
4494 reporting by a statutory or common law privilege.

4495 Section 111. Section **76-6-801** is amended to read:

4496 **76-6-801. Library theft.**

4497 (1) (a) ~~[A person is guilty of the crime of library theft when he]~~ As used in this section:

4498 (i) "Library" means:

4499 (A) a public library;

4500 (B) a library of an educational or historical society;

4501 (C) a museum; or

4502 (D) a repository of public records.

4503 (ii) "Library materials" means a book, plate, picture, photograph, engraving, painting,
4504 drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public
4505 record, microfilm, sound recording, audiovisual materials in any format, electronic data
4506 processing records, artifacts, or other documentary, written or printed materials regardless of
4507 physical form or characteristics, belonging to, on loan to, or otherwise in the custody of a
4508 library.

4509 (b) Terms defined in Section 76-1-101.5 apply to this section.

4510 (2) An actor commits library theft if the actor:

4511 (a) willfully, for the purpose of converting to personal use, and depriving the owner,
4512 conceals on [his] the actor's person or among [his] the actor's belongings library materials
4513 while on the premises of the library; or

4514 (b) willfully and without authority removes library materials from the library building
4515 with the intention of converting them to [his] the actor's own use.

4516 (3) A violation of Subsection (2) is:

4517 (a) a second degree felony if the value of the library materials is or exceeds \$5,000;

4518 (b) a third degree felony if:

4519 (i) the value of the library materials is or exceeds \$1,500 but is less than \$5,000;

4520 (ii) the value of the library materials is or exceeds \$500 and the actor has been twice
4521 before convicted of any of the following offenses, if each prior offense was committed within
4522 10 years before the date of the current conviction or the date of the offense upon which the
4523 current conviction is based and at least one of those convictions is for a class A misdemeanor:

4524 (A) any theft, any robbery, or any burglary with intent to commit theft;

4525 (B) any offense under Part 5, Fraud; or

4526 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);

4527 (iii) (A) the value of the library materials is or exceeds \$500 but is less than \$1,500;

4528 (B) the theft occurs on a property where the offender has committed any theft within
4529 the past five years; and

4530 (C) the offender has received written notice from the library prohibiting the offender
4531 from entering the property if the library has complied with the provisions of Subsection
4532 [78B-3-108](#)(4) governing notice by a merchant; or

4533 (iv) the actor has been previously convicted of a felony violation of any of the offenses
4534 listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed
4535 within 10 years before the date of the current conviction or the date of the offense upon which
4536 the current conviction is based;

4537 (c) a class A misdemeanor if:

- 4538 (i) the value of the library materials stolen is or exceeds \$500 but is less than \$1,500;
4539 (ii) (A) the value of the library materials is less than \$500;
4540 (B) the theft occurs on a property where the offender has committed any theft within
4541 the past five years; and
4542 (C) the offender has received written notice from the library if the library has complied
4543 with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or
4544 (iii) the actor has been twice before convicted of any of the offenses listed in
4545 Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10
4546 years before the date of the current conviction or the date of the offense upon which the current
4547 conviction is based; or
4548 (d) a class B misdemeanor if the value of the library materials stolen is less than \$500
4549 and the theft is not an offense under Subsection (3)(c).
4550 (4) (a) An actor who willfully conceals library materials on the actor's person or among
4551 the actor's belongings while on the premises of the library or in the library's immediate vicinity
4552 is prima facie presumed to have concealed library materials with the intention of converting the
4553 library materials to the actor's own use.
4554 (b) If library materials are found concealed upon the actor's person or among the actor's
4555 belongings, or electronic security devices are activated by the actor's presence, it is prima facie
4556 evidence of willful concealment.
4557 Section 112. Section **76-6-803** is amended to read:
4558 **76-6-803. Mutilation or damaging of library material.**
4559 (1) (a) [~~A person is guilty of the crime of library theft when he~~] As used in this section:
4560 (i) "Library" means the same as that term is defined in Section 76-6-801.
4561 (ii) "Library materials" means the same as that term is defined in Section 76-6-801.
4562 (b) Terms defined in Section 76-1-101.5 apply to this section.
4563 (2) An actor is guilty of mutilation or damage of library materials if the actor
4564 intentionally or recklessly writes upon, injures, defaces, tears, cuts, mutilates, destroys, or

4565 otherwise damages library materials.

4566 (3) A violation of Subsection (2) is:

4567 (a) a second degree felony if the value of the library materials is or exceeds \$5,000;

4568 (b) a third degree felony if:

4569 (i) the value of the library materials is or exceeds \$1,500 but is less than \$5,000;

4570 (ii) the value of the library materials is or exceeds \$500 and the actor has been twice

4571 before convicted of any of the following offenses, if each prior offense was committed within

4572 10 years before the date of the current conviction or the date of the offense upon which the

4573 current conviction is based and at least one of those convictions is for a class A misdemeanor:

4574 (A) any theft, any robbery, or any burglary with intent to commit theft;

4575 (B) any offense under Part 5, Fraud; or

4576 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);

4577 (iii) (A) the value of the library materials is or exceeds \$500 but is less than \$1,500;

4578 (B) the theft occurs on a property where the offender has committed any theft within

4579 the past five years; and

4580 (C) the offender has received written notice from the library if the library has complied

4581 with the provisions of Subsection [78B-3-108\(4\)](#) governing notice by a merchant; or

4582 (iv) the actor has been previously convicted of a felony violation of any of the offenses

4583 listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed

4584 within 10 years before the date of the current conviction or the date of the offense upon which

4585 the current conviction is based;

4586 (c) a class A misdemeanor if:

4587 (i) the value of the library materials stolen is or exceeds \$500 but is less than \$1,500;

4588 (ii) (A) the value of the library materials is less than \$500;

4589 (B) the theft occurs on a property where the offender has committed any theft within

4590 the past five years; and

4591 (C) the offender has received written notice from the library if the library has complied

4592 with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or
 4593 (iii) the actor has been twice before convicted of any of the offenses listed in
 4594 Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10
 4595 years before the date of the current conviction or the date of the offense upon which the current
 4596 conviction is based; or

4597 (d) a class B misdemeanor if the value of the library materials stolen is less than \$500
 4598 and the theft is not an offense under Subsection (3)(c).

4599 Section 113. Section **76-6-803.30** is amended to read:

4600 **76-6-803.30. Failure to return library material -- Written notice.**

4601 (1) (a) ~~[A person is guilty of library theft when]~~ As used in this section:

4602 (i) "Library" means the same as that term is defined in Section 76-6-801.

4603 (ii) "Library materials" means the same as that term is defined in Section 76-6-801.

4604 (b) Terms defined in Section 76-1-101.5 apply to this section.

4605 (2) (a) An actor is guilty of failure to return library materials if the actor, having
 4606 possession or having been in possession of library materials~~[, he]~~:

4607 ~~[(a)]~~ (i) fails to return the materials within 30 days after receiving written notice
 4608 demanding return of the materials; or

4609 ~~[(b)]~~ (ii) if the materials are lost or destroyed, fails to pay the replacement value of the
 4610 materials within 30 days after being notified.

4611 ~~[(2)]~~ (b) Written notice is considered received upon the sworn affidavit of the person
 4612 delivering the notice with a statement as to the date, place, and manner of delivery, or upon
 4613 proof that the notice was mailed postage prepaid, via the United States Postal Service, to the
 4614 current address listed for the person in the library records.

4615 (3) A violation of Subsection (2) is:

4616 (a) a second degree felony if the value of the library materials is or exceeds \$5,000;

4617 (b) a third degree felony if:

4618 (i) the value of the library materials is or exceeds \$1,500 but is less than \$5,000;

4619 (ii) the value of the library materials is or exceeds \$500 and the actor has been twice
4620 before convicted of any of the following offenses, if each prior offense was committed within
4621 10 years before the date of the current conviction or the date of the offense upon which the
4622 current conviction is based and at least one of those convictions is for a class A misdemeanor:

4623 (A) any theft, any robbery, or any burglary with intent to commit theft;

4624 (B) any offense under Part 5, Fraud; or

4625 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);

4626 (iii) (A) the value of the library materials is or exceeds \$500 but is less than \$1,500;

4627 (B) the theft occurs on a property where the offender has committed any theft within
4628 the past five years; and

4629 (C) the offender has received written notice from the library if the library has complied
4630 with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or

4631 (iv) the actor has been previously convicted of a felony violation of any of the offenses
4632 listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed
4633 within 10 years before the date of the current conviction or the date of the offense upon which
4634 the current conviction is based;

4635 (c) a class A misdemeanor if:

4636 (i) the value of the library materials stolen is or exceeds \$500 but is less than \$1,500;

4637 (ii) (A) the value of the library materials is less than \$500;

4638 (B) the theft occurs on a property where the offender has committed any theft within
4639 the past five years; and

4640 (C) the offender has received written notice from the library if the library has complied
4641 with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or

4642 (iii) the actor has been twice before convicted of any of the offenses listed in
4643 Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10
4644 years before the date of the current conviction or the date of the offense upon which the current
4645 conviction is based; or

4646 (d) a class B misdemeanor if the value of the library material stolen is less than \$500
4647 and the theft is not an offense under Subsection (3)(c).

4648 Section 114. Section **76-6-803.60** is amended to read:

4649 **76-6-803.60. Detention of theft suspect by library employee -- Purposes.**

4650 (1) (a) As used in this section:

4651 (i) "Library" means the same as that term is defined in Section [76-6-801](#).

4652 (ii) "Library materials" means the same as that term is defined in Section [76-6-801](#).

4653 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

4654 (2) Any employee of the library who has probable cause to believe that a person has
4655 committed library theft may detain the person, on or off the premises of a library, in a
4656 reasonable manner and for a reasonable length of time for all or any of the following purposes:

4657 (a) to make reasonable inquiry as to whether the person has in his possession concealed
4658 library materials;

4659 (b) to request identification;

4660 (c) to verify identification;

4661 (d) to make a reasonable request of the person to place or keep in full view any library
4662 materials the individual may have removed, or which the employee has reason to believe he
4663 may have removed, from its place of display or elsewhere, whether for examination, or for any
4664 other reasonable purpose;

4665 (e) to inform a peace officer of the detention of the person and surrender that person to
4666 the custody of a peace officer; or

4667 (f) in the case of a minor, to inform a peace officer, the parents, guardian, or other
4668 private person interested in the welfare of the minor as soon as possible of this detention and to
4669 surrender custody of the minor to this person.

4670 ~~[(2)]~~ (3) An employee may make a detention under this section off the library premises
4671 only if the detention is pursuant to an immediate pursuit of the person.

4672 Section 115. Section **76-6-803.90** is amended to read:

4673 **76-6-803.90. Liability -- Defense -- Probable cause -- Reasonableness.**

4674 (1) (a) As used in this section, "library" means the same as that term is defined in
4675 Section 76-6-801.

4676 (b) Terms defined in Section 76-1-101.5 apply to this section.

4677 (2) In any action for false arrest, false imprisonment, unlawful detention, defamation of
4678 character, assault, trespass, or invasion of civil rights brought by any person detained by an
4679 employee of the library, it is a defense to the action that the employee of the library detaining
4680 the person had probable cause to believe that the person had committed library theft and that
4681 the employee acted reasonably under all circumstances.

4682 Section 116. Section **76-6-902** is amended to read:

4683 **76-6-902. Antiquities alteration, removal, injury, or destruction.**

4684 (1) [~~It is unlawful for any person to intentionally alter, remove, injure, or destroy~~
4685 antiquities] Terms defined in Sections 76-1-101.5 and 76-6-901 apply to this section.

4686 (2) An actor commits antiquities alteration, removal, injury, or destruction if the actor:

4687 (a) intentionally alters, removes, injures, or destroys antiquities from state lands or
4688 private lands without the landowner's consent[-]; or

4689 (b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).

4690 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class

4691 B misdemeanor.

4692 (b) A violation of Subsection (2) is a third degree felony if:

4693 (i) the violation is the actor's second or subsequent violation of this section, Section
4694 76-6-902.1, or Section 76-6-902.2; or

4695 (ii) the amount at issue, as calculated under Subsection (3)(c), exceeds \$500.

4696 (c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:

4697 (i) the commercial or archaeological value of the antiquities involved in the violation;

4698 and

4699 (ii) the cost of the restoration and repair of the antiquities involved in the violation.

4700 (d) An actor shall surrender to the landowner all articles and material discovered,
4701 collected, excavated, or offered for sale or exchange in violation of this section.

4702 ~~[(2) It is unlawful to intentionally reproduce, rework, or forge any antiquities or make~~
4703 ~~any object, whether copies or not, or falsely label, describe, identify, or offer for sale or~~
4704 ~~exchange any object with the intent to represent the object as original and genuine, nor may any~~
4705 ~~person offer any object for sale or exchange that was collected or excavated in violation of this~~
4706 ~~chapter.]~~

4707 Section 117. Section **76-6-902.1** is enacted to read:

4708 **76-6-902.1. Unlawful creation, labeling, or sale of reproduction of antiquities.**

4709 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-901](#) apply to this section.

4710 (2) An actor commits unlawful reproduction, labeling, or sale of reproduction of
4711 antiquities if the actor:

4712 (a) with the intent to represent one or more objects as original and genuine antiquities,
4713 intentionally:

4714 (i) reproduces, reworks, or forges antiquities; or

4715 (ii) (A) makes an object, whether as a copy or not; or

4716 (B) falsely labels, describes, identifies, or offers for sale or exchange an object; or

4717 (b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).

4718 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class
4719 B misdemeanor.

4720 (b) A violation of Subsection (2) is a third degree felony if:

4721 (i) the violation is the actor's second or subsequent violation of this section, Section
4722 [76-6-902](#), or Section [76-6-902.2](#); or

4723 (ii) the amount at issue, as calculated under Subsection (3)(c), exceeds \$500.

4724 (c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:

4725 (i) the commercial or archaeological value of the antiquities involved in the violation;

4726 and

4727 (ii) the cost of the restoration and repair of the antiquities involved in the violation.

4728 (d) An actor shall surrender to the landowner all articles and material discovered,

4729 collected, excavated, or offered for sale or exchange in violation of this section.

4730 Section 118. Section **76-6-902.2** is enacted to read:

4731 **76-6-902.2. Unlawful sale or exchange of antiquities.**

4732 (1) Terms defined in Sections 76-1-101.5 and 76-6-901 apply to this section.

4733 (2) An actor commits unlawful sale or exchange of antiquities if the actor:

4734 (a) offers for sale or exchange an object that was collected or excavated in violation of

4735 Section 76-6-902; or

4736 (b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).

4737 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class

4738 B misdemeanor.

4739 (b) A violation of Subsection (2) is a third degree felony if:

4740 (i) the violation is the actor's second or subsequent violation of this section, Section

4741 76-6-902, or Section 76-6-902.1; or

4742 (ii) the amount at issue, as calculated under Subsection (3)(c), exceeds \$500.

4743 (c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:

4744 (i) the commercial or archaeological value of the antiquities involved in the violation;

4745 and

4746 (ii) the cost of the restoration and repair of the antiquities involved in the violation.

4747 (d) An actor shall surrender to the landowner all articles and material discovered,

4748 collected, excavated, or offered for sale or exchange in violation of this section.

4749 Section 119. Section **76-6-1001** is amended to read:

4750 **76-6-1001. Definitions.**

4751 As used in this part:

4752 (1) "Common mail carrier" means a person engaged in or transacting the business of

4753 collecting, transporting, or delivering mail, other than the United States Postal Service.

4754 (2) "Key" means any instrument used by the postal service and postal customer, and
 4755 which is designed to operate the lock on a mail receptacle.

4756 (3) "Mail" means any letter, card, parcel, or other material, along with its contents, that:

4757 (a) has postage affixed by the postal customer or postal service;

4758 (b) has been accepted for delivery by the postal service;

4759 (c) the postal customer leaves for collection by the postal service; or

4760 (d) the postal service delivers to the postal customer.

4761 (4) "Mail receptacle" means a mail box, post office box, rural box, or any place or area
 4762 intended or used by postal customers or a postal service for the collection or delivery of mail.

4763 (5) "Personal identifying information" means the same as that term is defined in
 4764 Section ~~[76-6-1102]~~ [76-6-1101](#).

4765 (6) "Postage" means a postal service stamp, permit imprint, meter strip, or other
 4766 indication of either prepayment for postal service provided or authorization by the postal
 4767 service for collection and delivery of mail.

4768 (7) "Postal service" means the United States Postal Service or a private common mail
 4769 carrier.

4770 Section 120. Section **76-6-1002** is amended to read:

4771 **76-6-1002. Damage to mail receptacle.**

4772 (1) ~~[A person commits the crime of]~~ Terms defined in Sections [76-1-101.5](#) and
 4773 [76-6-1001](#) apply to this section.

4774 (2) An actor commits damage to a mail receptacle if the ~~[person]~~ actor knowingly
 4775 damages the condition of a mail receptacle, including:

4776 (a) taking, concealing, damaging, or destroying a key; or

4777 (b) breaking open, tearing down, taking, damaging, or destroying a mail receptacle.

4778 ~~[(2)]~~ (3) (a) ~~[In determining the degree of an offense committed under Subsection (1),~~
 4779 ~~the penalty levels in Subsection [76-6-106\(3\)\(b\)](#) apply.]~~ A violation of Subsection (2) is a:

4780 (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary

4781 loss equal to or in excess of \$5,000 in value;

4782 (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary

4783 loss equal to or in excess of \$1,500 but is less than \$5,000 in value;

4784 (iii) class A misdemeanor if the actor's conduct causes or is intended to cause

4785 pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and

4786 (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary

4787 loss less than \$500 in value.

4788 (b) If the act committed amounts to an offense subject to a greater penalty, [~~this~~
4789 ~~subsection~~] Subsection (3)(a) does not prohibit prosecution and sentencing for the more serious
4790 offense.

4791 (4) The following presumptions and defenses shall be applicable to this section:

4792 (a) possession of property recently stolen, when no satisfactory explanation of such
4793 possession is made, is prima facie evidence that the actor in possession stole the property;

4794 (b) it is no defense under this part that the actor has an interest in the property or
4795 service stolen if another person also has an interest that the actor is not entitled to infringe,
4796 provided an interest in property for purposes of this Subsection (4)(b) shall not include a
4797 security interest for the repayment of a debt or obligation; and

4798 (c) it is a defense under this section that the actor:

4799 (i) acted under an honest claim of right to the property or service involved;

4800 (ii) acted in the honest belief that the actor had the right to obtain or exercise control
4801 over the property or service as the actor did; or

4802 (iii) obtained or exercised control over the property or service honestly believing that
4803 the owner, if present, would have consented.

4804 Section 121. Section **76-6-1003** is amended to read:

4805 **76-6-1003. Mail theft.**

4806 (1) [~~A person commits the crime of~~] Terms defined in Sections [76-1-101.5](#) and
4807 [76-6-1001](#) apply to this section.

- 4808 (2) An actor commits mail theft if the [person] actor:
- 4809 (a) knowingly, and with the intent to deprive another:
- 4810 (i) takes, destroys, hides, or embezzles mail; or
- 4811 (ii) obtains any mail by fraud or deception; or
- 4812 (b) buys, receives, conceals, or possesses mail and knows or reasonably should have
- 4813 known that the mail was unlawfully taken or obtained.
- 4814 ~~[(2)]~~ (3) [Mail theft] A violation of Subsection (2) is:
- 4815 (a) a third degree felony;
- 4816 (b) a class A misdemeanor, if the mail has no monetary value and does not include the
- 4817 name of an individual; or
- 4818 (c) a second degree felony, if the mail contains the personal identifying information of
- 4819 10 or more individuals.
- 4820 (4) The following presumptions and defenses shall be applicable to this section:
- 4821 (a) possession of property recently stolen, when no satisfactory explanation of such
- 4822 possession is made, is prima facie evidence that the actor in possession stole the property;
- 4823 (b) it is no defense under this section that the actor has an interest in the property or
- 4824 service stolen if another person also has an interest that the actor is not entitled to infringe,
- 4825 provided an interest in property for purposes of this Subsection (4)(b) shall not include a
- 4826 security interest for the repayment of a debt or obligation; and
- 4827 (c) it is a defense under this section that:
- 4828 (i) the actor acted under an honest claim of right to the property or service involved;
- 4829 (ii) the actor acted in the honest belief that the actor had the right to obtain or exercise
- 4830 control over the property or service as the actor did;
- 4831 (iii) the actor obtained or exercised control over the property or service honestly
- 4832 believing that the owner, if present, would have consented;
- 4833 (iv) the actor was unaware that the mail belonged to another person;
- 4834 (v) the actor reasonably believed the actor was entitled to the mail or had a right to

4835 acquire or dispose of the mail as the actor did; or

4836 (vi) the mail belonged to the actor's spouse, unless the parties were either legally
4837 separated or living in separate residences at the time of the alleged mail theft.

4838 Section 122. Section **76-6-1101** is repealed and reenacted to read:

4839 **76-6-1101. Definitions.**

4840 (1) As used in this part:

4841 (a) "Personal identifying information" may include:

4842 (i) name;

4843 (ii) birth date;

4844 (iii) address;

4845 (iv) telephone number;

4846 (v) driver license number;

4847 (vi) social security number;

4848 (vii) place of employment;

4849 (viii) employee identification numbers or other personal identification numbers;

4850 (ix) mother's maiden name;

4851 (x) electronic identification numbers;

4852 (xi) electronic signatures under Title 46, Chapter 4, Uniform Electronic Transactions

4853 Act;

4854 (xii) any other numbers or information that can be used to access a person's financial
4855 resources or medical information, except for numbers or information that can be prosecuted as

4856 financial transaction card offenses under Sections [76-6-506](#), [76-6-506.2](#), [76-6-506.3](#), and
4857 [76-6-506.6](#); or

4858 (xiii) a photograph or any other realistic likeness.

4859 (b) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

4860 Section 123. Section **76-6-1102** is amended to read:

4861 **76-6-1102. Identity fraud.**

4862 ~~[(1) As used in this part:]~~

4863 ~~[(a) "Personal identifying information" may include:]~~

4864 ~~[(i) name;]~~

4865 ~~[(ii) birth date;]~~

4866 ~~[(iii) address;]~~

4867 ~~[(iv) telephone number;]~~

4868 ~~[(v) drivers license number;]~~

4869 ~~[(vi) Social Security number;]~~

4870 ~~[(vii) place of employment;]~~

4871 ~~[(viii) employee identification numbers or other personal identification numbers;]~~

4872 ~~[(ix) mother's maiden name;]~~

4873 ~~[(x) electronic identification numbers;]~~

4874 ~~[(xi) electronic signatures under Title 46, Chapter 4, Uniform Electronic Transactions~~

4875 ~~Act;]~~

4876 ~~[(xii) any other numbers or information that can be used to access a person's financial~~

4877 ~~resources or medical information, except for numbers or information that can be prosecuted as~~

4878 ~~financial transaction card offenses under Sections 76-6-506 through 76-6-506.6; or]~~

4879 ~~[(xiii) a photograph or any other realistic likeness.]~~

4880 ~~[(b) "Restitution" means the same as that term is defined in Section 77-38b-102.]~~

4881 (1) Terms defined in Sections 76-1-101.5 and 76-6-1101 apply to this section.

4882 (2) ~~[(a) A person is guilty of identity fraud when that person]~~ An actor commits

4883 identity fraud if the actor knowingly or intentionally uses, or attempts to use, the personal

4884 identifying information of another person, whether that person is alive or deceased, with

4885 fraudulent intent, including to obtain, or attempt to obtain, credit, goods, services, employment,

4886 any other thing of value, or medical information.

4887 ~~[(b) It is not a defense to a violation of Subsection (2)(a) that the person did not know~~

4888 ~~that the personal information belonged to another person.]~~

4889 (3) [~~Identity fraud~~] A violation of Subsection (2) is:

4890 (a) except as provided in Subsection (3)(b)(ii), a third degree felony if the value of the
4891 credit, goods, services, employment, or any other thing of value is less than \$5,000; or

4892 (b) a second degree felony if:

4893 (i) the value of the credit, goods, services, employment, or any other thing of value is
4894 or exceeds \$5,000; or

4895 (ii) the use described in Subsection [~~(2)(a)~~] (2) of personal identifying information
4896 results, directly or indirectly, in bodily injury to another person.

4897 (4) (a) It is not a defense to a violation of Subsection (2) that the actor did not know
4898 that the personal information belonged to another person.

4899 (b) Multiple violations of Subsection (2) may be aggregated into a single offense, and
4900 the degree of the offense is determined by the total value of all credit, goods, services, or any
4901 other thing of value used, or attempted to be used, through the multiple violations.

4902 (5) (a) [~~When~~] If a defendant is convicted of a violation of this section, the court shall
4903 order the defendant to pay restitution in accordance with Title 77, Chapter 38b, Crime Victims
4904 Restitution Act.

4905 [~~(6)~~] (b) Restitution under Subsection (5)(a) may include:

4906 [~~(a)~~] (i) payment for any costs incurred, including attorney fees, lost wages, and
4907 replacement of checks; and

4908 [~~(b)~~] (ii) the value of the victim's time incurred due to the offense:

4909 [~~(i)~~] (A) in clearing the victim's credit history or credit rating;

4910 [~~(ii)~~] (B) in any civil or administrative proceedings necessary to satisfy or resolve any
4911 debt, lien, or other obligation of the victim or imputed to the victim and arising from the
4912 offense; and

4913 [~~(iii)~~] (C) in attempting to remedy any other intended or actual harm to the victim
4914 incurred as a result of the offense.

4915 Section 124. Section **76-6-1105** is amended to read:

4916 **76-6-1105. Unlawful possession of another's identification documents.**
 4917 (1) (a) As used in this section:
 4918 ~~[(a)]~~ (i) ~~[(i)]~~ (A) "Identifying document" means:
 4919 ~~[(A)]~~ (I) a government issued document commonly used for identification;
 4920 ~~[(B)]~~ (II) a vehicle registration certificate; or
 4921 ~~[(C)]~~ (III) any other document, image, data file, or medium containing personal
 4922 identifying information as defined in ~~[Subsections 76-6-1102(1)(a)(ii) through (xiii)]~~
 4923 Subsection 76-6-1101(1)(a).
 4924 ~~[(i)]~~ (B) "Identifying document" includes:
 4925 ~~[(A)]~~ (I) a counterfeit identifying document; or
 4926 ~~[(B)]~~ (II) a document containing personal identifying information of a deceased
 4927 individual.
 4928 ~~[(b)]~~ (ii) "Possess" means to have physical control or electronic access.
 4929 (b) Terms defined in Sections 76-1-101.5 and 76-6-1101 apply to this section.
 4930 (2) (a) Under circumstances that do not constitute a violation of Section ~~[76-6-1102 or~~
 4931 ~~Section 76-6-502, an individual is guilty of a class A misdemeanor if the individual]~~ 76-6-502
 4932 or 76-6-1102, an actor commits unlawful possession of another's identification documents if
 4933 the actor:
 4934 (i) obtains or possesses an identifying document:
 4935 (A) with knowledge that the ~~[individual]~~ actor is not entitled to obtain or possess the
 4936 identifying document; or
 4937 (B) with intent to deceive or defraud; or
 4938 (ii) assists another person in obtaining or possessing an identifying document:
 4939 (A) with knowledge that the person is not entitled to obtain or possess the identifying
 4940 document; or
 4941 (B) with knowledge that the person intends to use the identifying document to deceive
 4942 or defraud.

4943 (b) Under circumstances that do not constitute a violation of Section [~~76-6-1102, an~~
4944 ~~individual is guilty of a third degree felony if the individual]~~ 76-6-502 or 76-6-1102, an actor
4945 commits unlawful possession of another's identification documents if the actor:

4946 (i) obtains or possesses identifying documents of more than two, but fewer than 100,
4947 individuals:

4948 (A) with knowledge that the individual is not entitled to obtain or possess the
4949 identifying documents; or

4950 (B) with intent to deceive or defraud; or

4951 (ii) assists another person in obtaining or possessing identifying documents of more
4952 than two, but fewer than 100, individuals:

4953 (A) with knowledge that the person is not entitled to obtain or possess the multiple
4954 identifying documents; or

4955 (B) with knowledge that the person intends to use the identifying documents to deceive
4956 or defraud.

4957 (c) Under circumstances that do not constitute a violation of Section [~~76-6-1102, an~~
4958 ~~individual is guilty of a second degree felony if the individual]~~ 76-6-502 or 76-6-1102, an actor
4959 commits unlawful possession of another's identification documents if the actor:

4960 (i) obtains or possesses identifying documents of 100 or more individuals:

4961 (A) with knowledge that the individual is not entitled to obtain or possess the
4962 identifying documents; or

4963 (B) with intent to deceive or defraud; or

4964 (ii) assists another person in obtaining or possessing identifying documents of 100 or
4965 more individuals:

4966 (A) with knowledge that the person is not entitled to obtain or possess the identifying
4967 documents; or

4968 (B) with knowledge that the person intends to use the identifying documents to deceive
4969 or defraud.

4970 (3) A violation of:

4971 (a) Subsection (2)(a) is a class A misdemeanor;

4972 (b) Subsection (2)(b) is a third degree felony; or

4973 (c) Subsection (2)(c) is a second degree felony.

4974 Section 125. Section **76-6-1203** is amended to read:

4975 **76-6-1203. Mortgage fraud.**

4976 (1) [A person commits the offense of] Terms defined in Sections [76-1-101.5](#) and
4977 [76-6-1202](#) apply to this section.

4978 (2) An actor commits mortgage fraud if the [person] actor does any of the following
4979 with the intent to defraud:

4980 [(+)] (a) knowingly makes any material misstatement, misrepresentation, or omission
4981 during the mortgage lending process, intending that it be relied upon by a mortgage lender,
4982 borrower, or any other party to the mortgage lending process;

4983 [(-)] (b) knowingly uses or facilitates the use of any material misstatement,
4984 misrepresentation, or omission, during the mortgage lending process, intending that it be relied
4985 upon by a mortgage lender, borrower, or any other party to the mortgage lending process;

4986 [(-)] (c) files or causes to be filed with any county recorder in Utah any document that
4987 the [person] actor knows contains a material misstatement, misrepresentation, or omission; or

4988 [(+)] (d) receives any proceeds or any compensation in connection with a mortgage
4989 loan that the [person] actor knows resulted from a violation of this section.

4990 (3) (a) Notwithstanding any other administrative, civil, or criminal penalties, a
4991 violation of Subsection (2) is a:

4992 (i) class A misdemeanor if the value is or exceeds \$500 but is less than \$1,500;

4993 (ii) third degree felony if the value is or exceeds \$1,500 but is less than \$5,000;

4994 (iii) second degree felony if the value is or exceeds \$5,000; and

4995 (iv) second degree felony if the object or purpose of the commission of an act of

4996 mortgage fraud is the obtaining of sensitive personal identifying information, regardless of the

4997 value.

4998 (b) The determination of the degree of any offense under Subsection (3)(a) is measured
4999 by the total value of all property, money, or things obtained or sought to be obtained by a
5000 violation of Subsection (2), except as provided in Subsection (3)(a)(iv).

5001 (4) Each residential or commercial property transaction offense under this section
5002 constitutes a separate violation.

5003 Section 126. Section **76-6-1303** is amended to read:

5004 **76-6-1303. Possession, sale, or use of automated sales suppression device**
5005 **unlawful.**

5006 (1) ~~[It is a third degree felony to]~~ Terms defined in Sections 76-1-101.5 and 76-6-1302
5007 apply to this section.

5008 (2) An actor commits possession, sale, or use of an automated sales suppression device
5009 if the actor willfully or knowingly [sell, purchase, install, transfer, use, or possess] sells,
5010 purchases, installs, transfers, uses, or possesses in this state any automated sales suppression
5011 device or phantomware with the intent to defraud[~~, except that any second or subsequent~~
5012 violation of this Subsection (1) is a second degree felony].

5013 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third
5014 degree felony.

5015 (b) A second or subsequent violation of Subsection (2)(b) is a second degree felony.

5016 ~~[(2)]~~ (c) Notwithstanding Section 76-3-301, any person convicted of violating
5017 Subsection ~~[(1)]~~ (2) may be fined not more than twice the amount of the applicable taxes that
5018 would otherwise be due, but for the use of the automated sales suppression device or
5019 phantomware.

5020 ~~[(3)]~~ (d) Any person convicted of a violation of Subsection ~~[(1)]~~ (2):

5021 ~~[(a)]~~ (i) is liable for all applicable taxes, penalties under Section 59-1-401, and interest
5022 under Section 59-1-402 that would otherwise be due, but for the use of the automated sales
5023 suppression device or phantomware to evade the payment of taxes; and

5024 [~~(b)~~] (ii) shall disgorge all profits associated with the sale or use of an automated sales
5025 suppression device or phantomware.

5026 (4) An automated sales suppression device and any device containing an automated
5027 sales suppression device is contraband and subject to forfeiture under Title 24, Forfeiture and
5028 Disposition of Property Act.

5029 Section 127. Section **76-6-1403** is amended to read:

5030 **76-6-1403. Requirements for records of sale or purchases.**

5031 (1) Every dealer shall:

5032 (a) require the information under Subsection (2) for each transaction of regulated
5033 metal, except under Subsection 76-6-1406(4); and

5034 (b) maintain for each purchase of regulated metal the information required by this part
5035 in a written or electronic log, in the English language.

5036 (2) The dealer shall require the following information of the seller and shall record the
5037 information as required under Subsection (1) for each purchase of regulated metal:

5038 (a) a complete description of the regulated metal, including weight and metallic
5039 description, in accordance with scrap metal recycling industry standards;

5040 (b) the full name and residence of each person selling the regulated metal;

5041 (c) the vehicle type and license plate number, if applicable, of the vehicle transporting
5042 the regulated metal to the dealer;

5043 (d) the price per pound and the amount paid for each type of regulated metal purchased
5044 by the dealer;

5045 (e) the date, time, and place of the purchase;

5046 (f) the type and the identifying number of the identification provided in Subsection
5047 (2)(g);

5048 (g) a form of identification that is a valid United States federal or state-issued photo ID,
5049 which includes a driver license, a United States passport, a United States passport card, or a
5050 United States military identification card;

5051 (h) the seller's signature on a certificate stating that [~~he~~] the seller has the legal right to
5052 sell the scrap metal or junk; and

5053 (i) a digital photograph or still video of the seller, taken at the time of the sale, or a
5054 clearly legible photocopy of the seller's identification.

5055 (3) No entry in the log may be erased, deleted, mutilated, or changed.

5056 (4) The log and entries shall be open to inspection by the following officials having
5057 jurisdiction over the area in which the dealer does business during regular business hours:

5058 (a) the county sheriff or deputies;

5059 (b) any law enforcement agency; and

5060 (c) any constable or other state, municipal, or county official in the county in which the
5061 dealer does business.

5062 (5) A dealer shall make these records available for inspection by any law enforcement
5063 agency, upon request, at the dealer's place of business during the dealer's regular business
5064 hours.

5065 (6) Log entries made under this section shall be maintained for not less than three years
5066 from date of entry.

5067 (7) (a) The dealer may maintain the information required by Subsection (2) for repeat
5068 sellers who use the same vehicle to bring regulated metal for each transaction in a relational
5069 database that allows the dealer to enter an initial record of the seller's information and then
5070 relate subsequent transaction records to that initial information, except under Subsection (7)(b).

5071 (b) The dealer shall obtain regarding each transaction with repeat sellers:

5072 (i) a photograph of the seller; and

5073 (ii) a signature from the seller.

5074 (8) A dealer who violates this section is subject to the penalties described in Section
5075 76-6-1403.1.

5076 Section 128. Section **76-6-1403.1** is enacted to read:

5077 **76-6-1403.1. Unlawful conduct with respect to record of sale or purchase.**

- 5078 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-1402](#) apply to this section.
- 5079 (2) A dealer commits unlawful conduct with respect to record of sale or purchase if the
- 5080 dealer violates a requirement under Section [76-6-1403](#).
- 5081 (3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a
- 5082 class C misdemeanor.
- 5083 (ii) A dealer who is convicted of a class C misdemeanor under this section is subject to
- 5084 a mandatory fine of no less than \$750.
- 5085 (b) (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously
- 5086 has been convicted of a violation of this section or Section [76-6-1404.1](#), [76-6-1405.1](#),
- 5087 [76-6-1406.1](#), or [76-6-1409.1](#).
- 5088 (ii) A dealer who is convicted of a class A misdemeanor under this section is subject to
- 5089 a mandatory fine of no less than \$2,500.
- 5090 (4) (a) This section does not impair the authority of a county or municipality in this
- 5091 state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations
- 5092 may not be any less stringent than the provisions in Section [76-6-1403](#) or this section.
- 5093 (b) This section does not impair the authority of a county or municipality to revoke or
- 5094 deny a business license or permit required by that county or municipality regulating the
- 5095 authority to sell, purchase, or possess metal, including the revocation or denial of a business
- 5096 license or permit based on a violation of Section [76-6-1403](#) or this section.
- 5097 (c) This section does not prohibit the charging of a seller or dealer with any other
- 5098 criminal offense related to the obtaining, possession, or selling of stolen regulated metals.
- 5099 Section 129. Section **76-6-1404** is amended to read:
- 5100 **76-6-1404. Required notice to sellers of identification requirements.**
- 5101 (1) A dealer shall at all times maintain in a prominent place at the dealer's place of
- 5102 business, in open view to a seller of regulated metal, a clearly legible notice in not less than
- 5103 two-inch high lettering that contains the following language: "A PERSON ATTEMPTING TO
- 5104 SELL ANY REGULATED METAL MUST PROVIDE IDENTIFICATION AS REQUIRED

5105 BY STATE LAW."

5106 (2) A dealer who violates this section is subject to the penalties described in Section
5107 76-6-1404.1.

5108 Section 130. Section **76-6-1404.1** is enacted to read:

5109 **76-6-1404.1. Unlawful failure to maintain required notice to sellers.**

5110 (1) Terms defined in Sections 76-1-101.5 and 76-6-1402 apply to this section.

5111 (2) A dealer commits unlawful failure to maintain required notice to sellers if the
5112 dealer violates a requirement under Section 76-6-1404.

5113 (3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a
5114 class C misdemeanor.

5115 (ii) A dealer who is convicted of a class C misdemeanor under this section is subject to
5116 a mandatory fine of no less than \$750.

5117 (b) (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously
5118 has been convicted of a violation of this section or Section 76-6-1403.1, 76-6-1405.1,
5119 76-6-1406.1, or 76-6-1409.1.

5120 (ii) A dealer who is convicted of a class A misdemeanor under this section is subject to
5121 a mandatory fine of no less than \$2,500.

5122 (4) (a) This section does not impair the authority of a county or municipality in this
5123 state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations
5124 may not be any less stringent than the provisions in Section 76-6-1404 or this section.

5125 (b) This section does not impair the authority of a county or municipality to revoke or
5126 deny a business license or permit required by that county or municipality regulating the
5127 authority to sell, purchase, or possess metal, including the revocation or denial of a business
5128 license or permit based on a violation of Section 76-6-1404 or this section.

5129 (c) This section does not prohibit the charging of a seller or dealer with any other
5130 criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

5131 Section 131. Section **76-6-1405** is amended to read:

5132 **76-6-1405. Qualifications to sell to dealer.**

5133 (1) A dealer may not purchase regulated metal from a person younger than 18 years [of
5134 age] old.

5135 (2) If the person is unable to comply with all the identification requirements of
5136 Subsection [76-6-1403](#)(2), the dealer may not conduct a transaction of regulated metal with that
5137 person.

5138 (3) A dealer who violates this section is subject to the penalties described in Section
5139 [76-6-1405.1.](#)

5140 Section 132. Section **76-6-1405.1** is enacted to read:

5141 **76-6-1405.1. Unlawful failure to comply with qualifications to sell to dealer.**

5142 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-1402](#) apply to this section.

5143 (2) A dealer commits unlawful failure to comply with qualifications to sell to dealer if
5144 the dealer violates a requirement under Section [76-6-1405.](#)

5145 (3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a
5146 class C misdemeanor.

5147 (ii) A dealer who is convicted of a class C misdemeanor under this section is subject to
5148 a mandatory fine of no less than \$750.

5149 (b) (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously
5150 has been convicted of a violation of this section or Section [76-6-1403.1](#), [76-6-1404.1](#),
5151 [76-6-1406.1](#), or [76-6-1409.1](#).

5152 (ii) A dealer who is convicted of a class A misdemeanor under this section is subject to
5153 a mandatory fine of no less than \$2,500.

5154 (4) (a) This section does not impair the authority of a county or municipality in this
5155 state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations
5156 may not be any less stringent than the provisions in Section [76-6-1405](#) or this section.

5157 (b) This section does not impair the authority of a county or municipality to revoke or
5158 deny a business license or permit required by that county or municipality regulating the

5159 authority to sell, purchase, or possess metal, including the revocation or denial of a business
5160 license or permit based on a violation of Section 76-6-1405 or this section.

5161 (c) This section does not prohibit the charging of a seller or dealer with any other
5162 criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

5163 Section 133. Section **76-6-1406** is amended to read:

5164 **76-6-1406. Restrictions on the purchase of regulated metal -- Exemption.**

5165 (1) A dealer may conduct purchase transactions involving regulated metal only
5166 between the hours of 6 a.m. and 7 p.m.

5167 (2) Except when the dealer pays a government entity by check for regulated metal, the
5168 dealer may not purchase any of the following regulated metal without obtaining and keeping on
5169 file reasonable documentation that the seller is an employee, agent, or contractor of a
5170 governmental entity who is authorized to sell the item of regulated metal property on behalf of
5171 the governmental entity:

5172 (a) a manhole cover or sewer grate;

5173 (b) an electric light pole; or

5174 (c) a guard rail.

5175 (3) (a) A dealer may not purchase suspect metal without obtaining the information
5176 under Subsection (3)(b) identifying the owner of the suspect metal.

5177 (b) The owner of the suspect metal shall provide in writing:

5178 (i) the owner's telephone number;

5179 (ii) the owner's business or residential address, which may not be a post box;

5180 (iii) a copy of the owner's driver license; and

5181 (iv) a signed statement that the person is the lawful owner of the suspect metal and
5182 authorizes the seller, identified by name, to sell the suspect metal.

5183 (c) The dealer shall keep the identifying information provided in Subsection (3)(b) on
5184 file for not less than one year.

5185 (4) Transactions with businesses that have an established account with the dealer are

5186 exempt from the requirements of Subsections (2) and (3) if the business holds a valid business
5187 license, and:

5188 (a) (i) the dealer has on file a statement from the business identifying those employees
5189 authorized to sell all metals to the dealer; and

5190 (ii) the dealer conducts regulated metal transactions only with those identified
5191 employees of the business and records the name of the employee when recording the
5192 transaction;

5193 (b) the dealer has on file reasonable documentation from the business that any person
5194 verified as representing the business as an employee, and whom the dealer has verified is an
5195 employee, may sell regulated metal; or

5196 (c) the dealer makes payment for regulated metal purchased from a person by issuing a
5197 check to the business employing the seller.

5198 (5) If a dealer is a catalytic converter purchaser as defined in Section [13-32a-102](#), the
5199 dealer shall comply with the requirements in Title 13, Chapter 32a, Pawnshop, Secondhand
5200 Merchandise, and Catalytic Converter Transaction Information Act.

5201 (6) A dealer who violates this section is subject to the penalties described in Section
5202 [76-6-1406.1](#).

5203 Section 134. Section **76-6-1406.1** is enacted to read:

5204 **76-6-1406.1. Unlawful failure to follow restrictions on the purchase of regulated**
5205 **metal.**

5206 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-1402](#) apply to this section.

5207 (2) A dealer commits unlawful failure to follow restrictions on the purchase of
5208 regulated metal if the dealer violates a requirement under Section [76-6-1406](#).

5209 (3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a
5210 class C misdemeanor.

5211 (ii) A dealer who is convicted of a class C misdemeanor under this section is subject to
5212 a mandatory fine of no less than \$750.

5213 (b) (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously
5214 has been convicted of a violation of this section or Section [76-6-1403.1](#), [76-6-1404.1](#),
5215 [76-6-1405.1](#), or [76-6-1409.1](#).

5216 (ii) A dealer who is convicted of a class A misdemeanor under this section is subject to
5217 a mandatory fine of no less than \$2,500.

5218 (4) (a) This section does not impair the authority of a county or municipality in this
5219 state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations
5220 may not be any less stringent than the provisions in Section [76-6-1406](#) or this section.

5221 (b) This section does not impair the authority of a county or municipality to revoke or
5222 deny a business license or permit required by that county or municipality regulating the
5223 authority to sell, purchase, or possess metal, including the revocation or denial of a business
5224 license or permit based on a violation of Section [76-6-1406](#) or this section.

5225 (c) This section does not prohibit the charging of a seller or dealer with any other
5226 criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

5227 Section 135. Section **76-6-1408** is amended to read:

5228 **76-6-1408. Falsification of seller's statement to dealer.**

5229 (1) [~~(a) Any seller who, in providing any information as required by this part in selling,~~
5230 ~~offering, or attempting to sell regulated metal]~~ Terms defined in Sections [76-1-101.5](#) and
5231 [76-6-1402](#) apply to this section.

5232 (2) An actor commits falsification of seller's statement to dealer if the actor:

5233 (a) sells, offers to sell, or attempts to sell regulated metal; and

5234 (b) in providing information required by Section [76-6-1403](#), [76-6-1405](#), or [76-6-1406](#)
5235 willfully makes a false statement or provides any untrue information[~~, is guilty of a class B~~
5236 misdemeanor].

5237 [~~(b) Any seller who is convicted of a class B misdemeanor under this section is subject~~
5238 ~~to a mandatory fine of no less than \$1,000.~~]

5239 [~~(2)~~] (3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is

5240 a class B misdemeanor.

5241 (ii) An actor who is convicted of a class B misdemeanor under this section is subject to
 5242 a mandatory fine of no less than \$1,000.

5243 (b) (i) A violation of Subsection [(1) that occurs after the defendant] (2) is a class A
 5244 misdemeanor if the actor previously has been convicted of a violation of [Subsection (1) is a
 5245 class A misdemeanor] this section.

5246 [(b)] (ii) [Any seller] An actor who is convicted of a class A misdemeanor under this
 5247 section is subject to a mandatory fine of no less than \$2,500.

5248 Section 136. Section **76-6-1409** is amended to read:

5249 **76-6-1409. Hold on stolen regulated metal property -- Hold notice.**

5250 (1) (a) If a law enforcement agency has reasonable cause to believe that items of
 5251 regulated metal in the possession of a dealer are stolen, the law enforcement agency may issue
 5252 a written hold notice.

5253 (b) The hold notice described in Subsection (1)(a) shall:

5254 [(a)] (i) identify those items of regulated metal alleged to be stolen and subject to hold;
 5255 and

5256 [(b)] (ii) inform the dealer of the restrictions imposed on the regulated metal property
 5257 under Subsection (2).

5258 (2) For 60 days after the date of receiving a hold notice, a dealer may not process or
 5259 remove from the dealer's place of business any regulated metal identified in the hold notice,
 5260 unless the property is released earlier by the law enforcement agency or by order of a court of
 5261 competent jurisdiction.

5262 (3) On the expiration of the hold notice period, the hold is automatically released, and
 5263 the dealer may dispose of the regulated metal, unless otherwise directed by a court of
 5264 competent jurisdiction.

5265 (4) A dealer who violates this section is subject to the penalties described in Section
 5266 [76-6-1409.1.](#)

5267 Section 137. Section **76-6-1409.1** is enacted to read:

5268 **76-6-1409.1. Unlawful violation of regulated metal hold requirement.**

5269 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-1402](#) apply to this section.

5270 (2) A dealer commits unlawful violation of regulated metal hold requirement if the
5271 dealer violates a requirement under Section [76-6-1409](#).

5272 (3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a
5273 class C misdemeanor.

5274 (ii) A dealer who is convicted of a class C misdemeanor under this section is subject to
5275 a mandatory fine of no less than \$750.

5276 (b) (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously
5277 has been convicted of a violation of this section or Section [76-6-1403.1](#), [76-6-1404.1](#),
5278 [76-6-1405.1](#), or [76-6-1406.1](#).

5279 (ii) A dealer who is convicted of a class A misdemeanor under this section is subject to
5280 a mandatory fine of no less than \$2,500.

5281 (4) (a) This section does not impair the authority of a county or municipality in this
5282 state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations
5283 may not be any less stringent than the provisions in Section [76-6-1409](#) or this section.

5284 (b) This section does not impair the authority of a county or municipality to revoke or
5285 deny a business license or permit required by that county or municipality regulating the
5286 authority to sell, purchase, or possess metal, including the revocation or denial of a business
5287 license or permit based on a violation of Section [76-6-1409](#) or this section.

5288 (c) This section does not prohibit the charging of a seller or dealer with any other
5289 criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

5290 Section 138. Section **76-6a-101**, which is renumbered from Section 76-6a-2 is
5291 renumbered and amended to read:

5292 **[76-6a-2]. 76-6a-101. Definitions.**

5293 As used in this chapter:

5294 (1) (a) (i) "Compensation" means money, money bonuses, overrides, prizes, or other
5295 real or personal property, tangible or intangible.

5296 ~~[(b)]~~ (ii) "Compensation" does not include payment based on the sale of goods or
5297 services to anyone purchasing the goods or services for actual personal use or consumption.

5298 ~~[(2)]~~ (b) "Consideration" does not include:

5299 (i) payment for sales demonstration equipment ~~[and]~~ or materials furnished at cost for
5300 use in making sales and not for resale~~[-]~~; or

5301 (ii) time or effort spent in selling or recruiting activities.

5302 ~~[(3)]~~ (c) "Person" includes a business trust, estate, trust, joint venture, or any other
5303 legal or commercial entity.

5304 ~~[(4)]~~ (d) "Pyramid scheme" means any sales device or plan under which a person gives
5305 consideration to another person in exchange for compensation or the right to receive
5306 compensation ~~[which]~~ that is derived primarily from the introduction of other persons into the
5307 sales device or plan rather than from the sale of goods, services, or other property.

5308 (2) Terms defined in Section 76-1-101.5 apply to this part.

5309 Section 139. Section **76-6a-102** is enacted to read:

5310 **76-6a-102. Conducting pyramid scheme -- Violation as deceptive consumer sales**
5311 **practice -- Prosecution of civil violation.**

5312 (1) Terms defined in Section 76-1-101.5 apply to this section.

5313 (2) An actor commits the offense of conducting a pyramid scheme if the actor
5314 knowingly organizes, establishes, promotes, or administers a pyramid scheme.

5315 (3) A violation of Subsection (2) is a third degree felony.

5316 (4) It is not a defense to an action brought under this section that:

5317 (a) the sales device or plan limits the number of persons who may be introduced into
5318 the sales device or plan;

5319 (b) the sales device or plan includes additional conditions affecting eligibility for
5320 introduction into the sales device or plan or when compensation may be received from the sales

5321 device or plan; or

5322 (c) a person receives property or services in addition to the compensation or right to
5323 receive compensation in connection with a pyramid scheme.

5324 (5) The appropriate county attorney or district attorney has primary responsibility for
5325 investigating and prosecuting a criminal violation of this section.

5326 (6) (a) A violation under this section constitutes a violation of Section 13-11-4.

5327 (b) A criminal conviction under this section is prima facie evidence of a violation of
5328 Section 13-11-4.

5329 (c) In addition to prosecution under this section, a violation of this section shall be
5330 civily investigated and prosecuted as prescribed by Title 13, Chapter 11, Utah Consumer Sales
5331 Practices Act.

5332 Section 140. Section **76-6a-103** is enacted to read:

5333 **76-6a-103. Participating in pyramid scheme -- Violation as deceptive consumer**
5334 **sales practice -- Prosecution of civil violation.**

5335 (1) Terms defined in Section 76-1-101.5 apply to this section.

5336 (2) An actor commits the offense of participating in a pyramid scheme if the actor
5337 participates in a pyramid scheme only by receiving compensation for the introduction of
5338 another person into the pyramid scheme rather than from the sale of goods, services, or other
5339 property.

5340 (3) A violation of Subsection (2) is a class B misdemeanor.

5341 (4) It is not a defense to an action brought under this section that:

5342 (a) the sales device or plan limits the number of persons who may be introduced into
5343 the sales device or plan;

5344 (b) the sales device or plan includes additional conditions affecting eligibility for
5345 introduction into the sales device or plan or when compensation may be received from the sales
5346 device or plan; or

5347 (c) a person receives property or services in addition to the compensation or right to

5348 receive compensation in connection with a pyramid scheme.

5349 (5) The appropriate county attorney or district attorney has primary responsibility for
 5350 investigating and prosecuting a criminal violation of this section.

5351 (6) (a) A violation under this section constitutes a violation of Section [13-11-4](#).

5352 (b) A criminal conviction under this section is prima facie evidence of a violation of
 5353 Section [13-11-4](#).

5354 (c) In addition to prosecution under this section, a violation of this section shall be
 5355 civilly investigated and prosecuted as prescribed by Title 13, Chapter 11, Utah Consumer Sales
 5356 Practices Act.

5357 Section 141. Section **76-6a-104**, which is renumbered from Section 76-6a-6 is
 5358 renumbered and amended to read:

5359 **~~[76-6a-6]~~. 76-6a-104. Rights of person giving consideration in pyramid**
 5360 **scheme.**

5361 (1) (a) Any person giving consideration in connection with a pyramid scheme may,
 5362 notwithstanding any agreement to the contrary, declare ~~[his]~~ the person's giving of
 5363 consideration and the related sale or contract for sale void, and may bring a court action to
 5364 recover the consideration.

5365 (b) In ~~[the action]~~ an action brought under Subsection (1)(a), the court shall, in addition
 5366 to any judgment awarded to the plaintiff, require the defendant to pay to the plaintiff interest as
 5367 provided in Section [15-1-4](#), reasonable attorneys' fees, and the costs of the action reduced by
 5368 any compensation paid by the defendant to the plaintiff in connection with the pyramid scheme.

5369 (2) (a) The rights, remedies, and penalties provided in this chapter are independent of
 5370 and supplemental to each other and to any other right, remedy or penalty available in law or
 5371 equity.

5372 (b) Nothing contained in this chapter shall be construed to diminish or abrogate any
 5373 other right, remedy or penalty.

5374 Section 142. Section **76-9-201** is amended to read:

5375 **76-9-201. Electronic communication harassment -- Definitions -- Penalties.**

5376 (1) As used in this section:

5377 (a) "Adult" means an individual 18 years [~~of age~~] old or older.

5378 (b) "Electronic communication" means a communication by electronic,
5379 electro-mechanical, or electro-optical communication device for the transmission and reception
5380 of audio, image, or text but does not include broadcast transmissions or similar
5381 communications that are not targeted at a specific individual.

5382 (c) "Electronic communication device" includes a telephone, a facsimile machine,
5383 electronic mail, a pager, a computer, or another device or medium that can be used to
5384 communicate electronically.

5385 (d) "Minor" means an individual who is younger than 18 years [~~of age~~] old.

5386 (e) "Personal identifying information" means the same as that term is defined in
5387 Section [~~76-6-1102~~] [76-6-1101](#).

5388 (2) Except to the extent the person's conduct constitutes an offense under Section
5389 [76-9-203](#), a person is guilty of electronic communication harassment and subject to prosecution
5390 in the jurisdiction where the communication originated or was received if with intent to
5391 intimidate, abuse, threaten, harass, frighten, or disrupt the electronic communications of
5392 another, the person:

5393 (a) (i) makes repeated contact by means of electronic communications, regardless of
5394 whether a conversation ensues; or

5395 (ii) after the recipient has requested or informed the person not to contact the recipient,
5396 and the person repeatedly or continuously:

5397 (A) contacts the electronic communication device of the recipient; or

5398 (B) causes an electronic communication device of the recipient to ring or to receive
5399 other notification of attempted contact by means of electronic communication;

5400 (b) makes contact by means of electronic communication and insults, taunts, or
5401 challenges the recipient of the communication or any person at the receiving location in a

5402 manner likely to provoke a violent or disorderly response;

5403 (c) makes contact by means of electronic communication and threatens to inflict injury,
5404 physical harm, or damage to any person or the property of any person; or

5405 (d) causes disruption, jamming, or overload of an electronic communication system
5406 through excessive message traffic or other means utilizing an electronic communication device.

5407 (3) A person is guilty of electronic communication harassment if the person:

5408 (a) electronically publishes, posts, or otherwise discloses personal identifying
5409 information of another individual in a public online site or forum with the intent to abuse,
5410 threaten, or disrupt the other individual's electronic communication and without the other
5411 individual's permission; or

5412 (b) sends a communication by electronic mail, instant message, or other similar means,
5413 if:

5414 (i) the communication references personal identifying information of another
5415 individual; [~~and~~]

5416 (ii) the person sends the communication:

5417 (A) without the individual's consent; and

5418 (B) with the intent to cause a recipient of the communication to reasonably believe that
5419 the individual authorized or sent the communication; and

5420 (iii) with the intent to:

5421 (A) cause an individual physical, emotional, or economic injury or damage; or

5422 (B) defraud an individual.

5423 (4) (a) Electronic communication harassment is a class B misdemeanor.

5424 (b) A second or subsequent offense of electronic communication harassment is a class
5425 A misdemeanor.

5426 (5) (a) Except as provided under Subsection (5)(b), criminal prosecution under this
5427 section does not affect an individual's right to bring a civil action for damages suffered as a
5428 result of the commission of an offense under this section.

5429 (b) This section does not create a civil cause of action based on electronic
5430 communications made for legitimate business purposes.

5431 Section 143. Section **76-10-204** is amended to read:

5432 **76-10-204. Damaging bridge, dam, canal, or other water-related structure.**

5433 (1) A person is guilty of a third degree felony who intentionally, knowingly, or
5434 recklessly commits an offense under Subsection (2) that does not amount to a violation of
5435 Subsection [~~76-6-106(2)(b)(ii)~~] 76-6-106(2)(a)(ii).

5436 (2) Offenses referred to in Subsection (1) are when a person:

5437 (a) cuts, breaks, damages, or destroys any bridge, dam, canal, flume, aqueduct, levee,
5438 embankment, reservoir, or other structure erected to create hydraulic power, to drain or reclaim
5439 any swamp and overflowed or marsh land, to conduct water for mining, manufacturing,
5440 reclamation, or agricultural purposes, or for the supply of the inhabitants of any city or town;

5441 (b) makes or causes to be made any aperture in any dam, canal, flume, aqueduct,
5442 reservoir, embankment, levee, or structure with intent to injure or destroy it; or

5443 (c) draws up, cuts, or injures any piles fixed in the ground and used for securing any
5444 lake or river bank or walls or any dock, quay, jetty, or lock.

5445 Section 144. Section **76-10-1302** is amended to read:

5446 **76-10-1302. Prostitution.**

5447 (1) An actor, except for a child under Section 76-10-1315, is guilty of prostitution if
5448 the actor engages in sexual activity with another individual for a fee, or the functional
5449 equivalent of a fee.

5450 (2) (a) Except as provided in Subsection (2)(b) and Section 76-10-1309, a violation of
5451 Subsection (1) is a class B misdemeanor.

5452 (b) Except as provided in Section 76-10-1309, an actor who is convicted a second time,
5453 and on all subsequent convictions, of a subsequent offense of prostitution under this section or
5454 under a local ordinance adopted under Section 76-10-1307, is guilty of a class A misdemeanor.

5455 (3) A prosecutor may not prosecute an actor for a violation of Subsection (1) if the

5456 actor engages in a violation of Subsection (1) at or near the time the actor witnesses or is a
5457 victim of any of the following offenses, or an attempt to commit any of the following offenses,
5458 and the actor reports the offense or attempt to law enforcement in good faith:

- 5459 (a) assault, Section 76-5-102;
- 5460 (b) aggravated assault, Section 76-5-103;
- 5461 (c) mayhem, Section 76-5-105;
- 5462 (d) aggravated murder, murder, manslaughter, negligent homicide, child abuse
5463 homicide, or homicide by assault under Chapter 5, Part 2, Criminal Homicide;
- 5464 (e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or
5465 aggravated human trafficking, human smuggling or aggravated human smuggling, or human
5466 trafficking of a child under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;
- 5467 (f) rape, Section 76-5-402;
- 5468 (g) rape of a child, Section 76-5-402.1;
- 5469 (h) object rape, Section 76-5-402.2;
- 5470 (i) object rape of a child, Section 76-5-402.3;
- 5471 (j) forcible sodomy, Section 76-5-403;
- 5472 (k) sodomy on a child, Section 76-5-403.1;
- 5473 (l) forcible sexual abuse, Section 76-5-404;
- 5474 (m) sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child,
5475 Section 76-5-404.3;
- 5476 (n) aggravated sexual assault, Section 76-5-405;
- 5477 (o) sexual exploitation of a minor, Section 76-5b-201;
- 5478 (p) aggravated sexual exploitation of a minor, Section 76-5b-201.1;
- 5479 (q) sexual exploitation of a vulnerable adult, Section 76-5b-202;
- 5480 (r) aggravated burglary or burglary of a dwelling under Chapter 6, Part 2, Burglary and
5481 Criminal Trespass;
- 5482 (s) aggravated robbery or robbery under Chapter 6, Part 3, Robbery; or

5483 (t) theft by extortion under Section 76-6-406 under the circumstances described in
5484 Subsection [~~76-6-406(2)(a) or (b)~~] 76-6-406(1)(a)(i) or (ii).

5485 Section 145. Section **76-10-1602** is amended to read:

5486 **76-10-1602. Definitions.**

5487 As used in this part:

5488 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
5489 business trust, association, or other legal entity, and any union or group of individuals
5490 associated in fact although not a legal entity, and includes illicit as well as licit entities.

5491 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
5492 commission of at least three episodes of unlawful activity, which episodes are not isolated, but
5493 have the same or similar purposes, results, participants, victims, or methods of commission, or
5494 otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall
5495 demonstrate continuing unlawful conduct and be related either to each other or to the
5496 enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have
5497 occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful
5498 activity as defined by this part shall have occurred within five years of the commission of the
5499 next preceding act alleged as part of the pattern.

5500 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
5501 interest in property, including state, county, and local governmental entities.

5502 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request,
5503 command, encourage, or intentionally aid another person to engage in conduct which would
5504 constitute any offense described by the following crimes or categories of crimes, or to attempt
5505 or conspire to engage in an act which would constitute any of those offenses, regardless of
5506 whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor
5507 or a felony:

5508 (a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized
5509 Recording Practices Act;

- 5510 (b) any act prohibited by the criminal provisions of Title 19, Environmental Quality
5511 Code, Sections 19-1-101 through 19-7-109;
- 5512 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary
5513 purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources
5514 Code of Utah, or Section 23-20-4;
- 5515 (d) false claims for medical benefits, kickbacks, and any other act prohibited by Title
5516 26, Chapter 20, Utah False Claims Act, Sections 26-20-1 through 26-20-12;
- 5517 (e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal
5518 Offenses and Procedure Act;
- 5519 (f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform
5520 Land Sales Practices Act;
- 5521 (g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah
5522 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act,
5523 Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d,
5524 Clandestine Drug Lab Act;
- 5525 (h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform
5526 Securities Act;
- 5527 (i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah
5528 Procurement Code;
- 5529 (j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;
- 5530 (k) a threat of terrorism, Section 76-5-107.3;
- 5531 (l) a criminal homicide offense, as described in Section 76-5-201;
- 5532 (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;
- 5533 (n) human trafficking, human trafficking of a child, human smuggling, or aggravated
5534 human trafficking, Sections 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-309, and
5535 76-5-310;
- 5536 (o) sexual exploitation of a minor or aggravated sexual exploitation of a minor,

- 5537 Sections [76-5b-201](#) and [76-5b-201.1](#);
- 5538 (p) arson or aggravated arson, Sections [76-6-102](#) and [76-6-103](#);
- 5539 (q) causing a catastrophe, Section [76-6-105](#);
- 5540 (r) burglary or aggravated burglary, Sections [76-6-202](#) and [76-6-203](#);
- 5541 (s) burglary of a vehicle, Section [76-6-204](#);
- 5542 (t) manufacture or possession of an instrument for burglary or theft, Section [76-6-205](#);
- 5543 (u) robbery or aggravated robbery, Sections [76-6-301](#) and [76-6-302](#);
- 5544 (v) theft, Section [76-6-404](#);
- 5545 (w) theft by deception, Section [76-6-405](#);
- 5546 (x) theft by extortion, Section [76-6-406](#);
- 5547 (y) receiving stolen property, Section [76-6-408](#);
- 5548 (z) theft of services, Section [76-6-409](#);
- 5549 (aa) forgery, Section [76-6-501](#);
- 5550 (bb) fraudulent use of a credit card, Sections [76-6-506.2](#), [76-6-506.3](#), [~~[76-6-506.5](#)~~]; and
- 5551 [76-6-506.6](#);
- 5552 (cc) deceptive business practices, Section [76-6-507](#);
- 5553 (dd) bribery or receiving bribe by person in the business of selection, appraisal, or
- 5554 criticism of goods, Section [76-6-508](#);
- 5555 (ee) bribery of a labor official, Section [76-6-509](#);
- 5556 (ff) defrauding creditors, Section [76-6-511](#);
- 5557 (gg) acceptance of deposit by insolvent financial institution, Section [76-6-512](#);
- 5558 (hh) unlawful dealing with property by fiduciary, Section [76-6-513](#);
- 5559 (ii) bribery or threat to influence contest, Section [76-6-514](#);
- 5560 (jj) making a false credit report, Section [76-6-517](#);
- 5561 (kk) criminal simulation, Section [76-6-518](#);
- 5562 (ll) criminal usury, Section [76-6-520](#);
- 5563 (mm) [~~fraudulent insurance act~~] insurance fraud, Section [76-6-521](#);

- 5564 (nn) retail theft, Section 76-6-602;
- 5565 (oo) computer crimes, Section 76-6-703;
- 5566 (pp) identity fraud, Section 76-6-1102;
- 5567 (qq) mortgage fraud, Section 76-6-1203;
- 5568 (rr) sale of a child, Section 76-7-203;
- 5569 (ss) bribery to influence official or political actions, Section 76-8-103;
- 5570 (tt) threats to influence official or political action, Section 76-8-104;
- 5571 (uu) receiving bribe or bribery by public servant, Section 76-8-105;
- 5572 (vv) receiving bribe or bribery for endorsement of person as public servant, Section
- 5573 76-8-106;
- 5574 (ww) official misconduct, Sections 76-8-201 and 76-8-202;
- 5575 (xx) obstruction of justice, Section 76-8-306;
- 5576 (yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- 5577 (zz) false or inconsistent material statements, Section 76-8-502;
- 5578 (aaa) false or inconsistent statements, Section 76-8-503;
- 5579 (bbb) written false statements, Section 76-8-504;
- 5580 (ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
- 5581 (ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;
- 5582 (eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- 5583 (fff) tampering with evidence, Section 76-8-510.5;
- 5584 (ggg) falsification or alteration of government record, Section 76-8-511, if the record is
- 5585 a record described in Title 20A, Election Code, Title 36, Chapter 11, Lobbyist Disclosure and
- 5586 Regulation Act[, or Title 36, Chapter 11a, Local Government and Board of Education Lobbyist
- 5587 Disclosure and Regulation Act];
- 5588 (hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or
- 5589 76-8-1205;
- 5590 (iii) unemployment insurance fraud, Section 76-8-1301;

- 5591 (jjj) intentionally or knowingly causing one animal to fight with another, Subsection
5592 76-9-301(2)(d) or (e), or Section 76-9-301.1;
- 5593 (kkk) possession, use, or removal of explosives, chemical, or incendiary devices or
5594 parts, Section 76-10-306;
- 5595 (lll) delivery to common carrier, mailing, or placement on premises of an incendiary
5596 device, Section 76-10-307;
- 5597 (mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;
- 5598 (nnn) unlawful marking of pistol or revolver, Section 76-10-521;
- 5599 (ooo) alteration of number or mark on pistol or revolver, Section 76-10-522;
- 5600 (ppp) forging or counterfeiting trademarks, trade name, or trade device, Section
5601 76-10-1002;
- 5602 (qqq) selling goods under counterfeited trademark, trade name, or trade devices,
5603 Section 76-10-1003;
- 5604 (rrr) sales in containers bearing registered trademark of substituted articles, Section
5605 76-10-1004;
- 5606 (sss) selling or dealing with article bearing registered trademark or service mark with
5607 intent to defraud, Section 76-10-1006;
- 5608 (ttt) gambling, Section 76-10-1102;
- 5609 (uuu) gambling fraud, Section 76-10-1103;
- 5610 (vvv) gambling promotion, Section 76-10-1104;
- 5611 (www) possessing a gambling device or record, Section 76-10-1105;
- 5612 (xxx) confidence game, Section 76-10-1109;
- 5613 (yyy) distributing pornographic material, Section 76-10-1204;
- 5614 (zzz) inducing acceptance of pornographic material, Section 76-10-1205;
- 5615 (aaaa) dealing in harmful material to a minor, Section 76-10-1206;
- 5616 (bbbb) distribution of pornographic films, Section 76-10-1222;
- 5617 (cccc) indecent public displays, Section 76-10-1228;

5618 (dddd) prostitution, Section 76-10-1302;
5619 (eeee) aiding prostitution, Section 76-10-1304;
5620 (ffff) exploiting prostitution, Section 76-10-1305;
5621 (ggggg) aggravated exploitation of prostitution, Section 76-10-1306;
5622 (hhhhh) communications fraud, Section 76-10-1801;
5623 (iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and
5624 Currency Transaction Reporting Act;
5625 (jjjj) vehicle compartment for contraband, Section 76-10-2801;
5626 (kkkk) any act prohibited by the criminal provisions of the laws governing taxation in
5627 this state; and
5628 (llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C.
5629 Sec. 1961(1)(B), (C), and (D).
5630 Section 146. Section 77-18-105 is amended to read:
5631 **77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation --**
5632 **Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench**
5633 **supervision for payments on criminal accounts receivable.**
5634 (1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in
5635 abeyance agreement, the court may hold the plea in abeyance:
5636 (a) in accordance with Chapter 2a, Pleas in Abeyance; and
5637 (b) under the terms of the plea in abeyance agreement.
5638 (2) If a defendant is convicted, the court:
5639 (a) shall impose a sentence in accordance with Section 76-3-201; and
5640 (b) subject to Subsection (5), may suspend the execution of the sentence and place the
5641 defendant:
5642 (i) on probation under the supervision of the department;
5643 (ii) on probation under the supervision of an agency of a local government or a private
5644 organization; or

5645 (iii) on court probation under the jurisdiction of the sentencing court.
5646 (3) (a) The legal custody of all probationers under the supervision of the department is
5647 with the department.
5648 (b) The legal custody of all probationers under the jurisdiction of the sentencing court
5649 is vested as ordered by the court.
5650 (c) The court has continuing jurisdiction over all probationers.
5651 (4) (a) Court probation may include an administrative level of services, including
5652 notification to the sentencing court of scheduled periodic reviews of the probationer's
5653 compliance with conditions.
5654 (b) Supervised probation services provided by the department, an agency of a local
5655 government, or a private organization shall specifically address the defendant's risk of
5656 reoffending as identified by a screening or an assessment.
5657 (5) (a) Before ordering supervised probation, the court shall consider the supervision
5658 costs to the defendant for each entity that can supervise the defendant.
5659 (b) (i) A court may order an agency of a local government to supervise the probation
5660 for an individual convicted of any crime if:
5661 (A) the agency has the capacity to supervise the individual; and
5662 (B) the individual's supervision needs will be met by the agency.
5663 (ii) A court may only order:
5664 (A) the department to supervise the probation for an individual convicted of a class A
5665 misdemeanor or any felony; or
5666 (B) a private organization to supervise the probation for an individual convicted of a
5667 class A, B, or C misdemeanor or an infraction.
5668 (c) A court may not order a specific private organization to supervise an individual
5669 unless there is only one private organization that can provide the specific supervision services
5670 required to meet the individual's supervision needs.
5671 (6) (a) If a defendant is placed on probation, the court may order the defendant as a

5672 condition of the defendant's probation:

5673 (i) to provide for the support of persons for whose support the defendant is legally
5674 liable;

5675 (ii) to participate in available treatment programs, including any treatment program in
5676 which the defendant is currently participating if the program is acceptable to the court;

5677 (iii) be voluntarily admitted to the custody of the Division of Substance Abuse and
5678 Mental Health for treatment at the Utah State Hospital in accordance with Section [77-18-106](#);

5679 (iv) if the defendant is on probation for a felony offense, to serve a period of time as an
5680 initial condition of probation that does not exceed one year in a county jail designated by the
5681 department, after considering any recommendation by the court as to which jail the court finds
5682 most appropriate;

5683 (v) to serve a term of home confinement in accordance with Section [77-18-107](#);

5684 (vi) to participate in compensatory service programs, including the compensatory
5685 service program described in Section [~~76-6-107.1~~] [76-3-410](#);

5686 (vii) to pay for the costs of investigation, probation, or treatment services;

5687 (viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime
5688 Victims Restitution Act; or

5689 (ix) to comply with other terms and conditions the court considers appropriate to
5690 ensure public safety or increase a defendant's likelihood of success on probation.

5691 (b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a
5692 defendant to include a period of time that is served in a county jail immediately before the
5693 termination of probation as long as that period of time does not exceed one year.

5694 (ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation
5695 violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply
5696 to the period of time that the court orders the defendant to serve in a county jail under this
5697 Subsection (6)(b)(ii).

5698 (7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on

5699 probation after December 31, 2018:

5700 (i) may not exceed the individual's maximum sentence;

5701 (ii) shall be for a period of time that is in accordance with the supervision length
5702 guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the
5703 extent the guidelines are consistent with the requirements of the law; and

5704 (iii) shall be terminated in accordance with the supervision length guidelines
5705 established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the
5706 guidelines are consistent with the requirements of the law.

5707 (b) Probation of an individual placed on probation after December 31, 2018, whose
5708 maximum sentence is one year or less, may not exceed 36 months.

5709 (c) Probation of an individual placed on probation on or after October 1, 2015, but
5710 before January 1, 2019, may be terminated at any time at the discretion of the court or upon
5711 completion without violation of 36 months probation in felony or class A misdemeanor cases,
5712 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance
5713 with Section 64-13-21 regarding earned credits.

5714 (d) This Subsection (7) does not apply to the probation of an individual convicted of an
5715 offense for criminal nonsupport under Section 76-7-201.

5716 (8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal
5717 accounts receivable for the defendant upon termination of the probation period for the
5718 defendant under Subsection (7), the court may require the defendant to continue to make
5719 payments towards the criminal accounts receivable in accordance with the payment schedule
5720 established by the court under Section 77-32b-103.

5721 (b) A court may not require the defendant to make payments as described in Subsection
5722 (8)(a) beyond the expiration of the defendant's sentence.

5723 (c) If the court requires a defendant to continue to pay in accordance with the payment
5724 schedule for the criminal accounts receivable under this Subsection (8) and the defendant
5725 defaults on the criminal accounts receivable, the court shall proceed with an order for a civil

5726 judgment of restitution and a civil accounts receivable for the defendant as described in Section
5727 77-18-114.

5728 (d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's
5729 own motion, the court may require a defendant to show cause as to why the defendant's failure
5730 to pay in accordance with the payment schedule should not be treated as contempt of court.

5731 (ii) A court may hold a defendant in contempt for failure to make payments for a
5732 criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

5733 (e) This Subsection (8) does not apply to the probation of an individual convicted of an
5734 offense for criminal nonsupport under Section 76-7-201.

5735 (9) When making any decision regarding probation, the court shall consider
5736 information provided by the Department of Corrections regarding a defendant's individual case
5737 action plan, including any progress the defendant has made in satisfying the case action plan's
5738 completion requirements.

5739 Section 147. Section 77-23a-8 is amended to read:

5740 **77-23a-8. Court order to authorize or approve interception -- Procedure.**

5741 (1) The attorney general of the state, any assistant attorney general specially designated
5742 by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy
5743 district attorney specially designated by the county attorney or by the district attorney, may
5744 authorize an application to a judge of competent jurisdiction for an order for an interception of
5745 wire, electronic, or oral communications by any law enforcement agency of the state, the
5746 federal government or of any political subdivision of the state that is responsible for
5747 investigating the type of offense for which the application is made.

5748 (2) The judge may grant the order in conformity with the required procedures when the
5749 interception sought may provide or has provided evidence of the commission of:

5750 (a) any act:

5751 (i) prohibited by the criminal provisions of:

5752 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

- 5753 (B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
- 5754 (C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and
- 5755 (ii) punishable by a term of imprisonment of more than one year;
- 5756 (b) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform
- 5757 Securities Act, and punishable by a term of imprisonment of more than one year;
- 5758 (c) an offense:
- 5759 (i) of:
- 5760 (A) attempt, Section 76-4-101;
- 5761 (B) conspiracy, Section 76-4-201;
- 5762 (C) solicitation, Section 76-4-203; and
- 5763 (ii) punishable by a term of imprisonment of more than one year;
- 5764 (d) a threat of terrorism offense punishable by a maximum term of imprisonment of
- 5765 more than one year, Section 76-5-107.3;
- 5766 (e) (i) aggravated murder, Section 76-5-202;
- 5767 (ii) murder, Section 76-5-203; or
- 5768 (iii) manslaughter, Section 76-5-205;
- 5769 (f) (i) kidnapping, Section 76-5-301;
- 5770 (ii) child kidnapping, Section 76-5-301.1;
- 5771 (iii) aggravated kidnapping, Section 76-5-302;
- 5772 (iv) human trafficking, Section 76-5-308, 76-5-308.1, or 76-5-308.5, or human
- 5773 smuggling, Section 76-5-308.3; or
- 5774 (v) aggravated human trafficking, Section 76-5-310, or aggravated human smuggling,
- 5775 Section 76-5-310.1;
- 5776 (g) (i) arson, Section 76-6-102; or
- 5777 (ii) aggravated arson, Section 76-6-103;
- 5778 (h) (i) burglary, Section 76-6-202; or
- 5779 (ii) aggravated burglary, Section 76-6-203;

- 5780 (i) (i) robbery, Section 76-6-301; or
5781 (ii) aggravated robbery, Section 76-6-302;
5782 (j) an offense:
5783 (i) of:
5784 (A) theft, Section 76-6-404;
5785 (B) theft by deception, Section 76-6-405; or
5786 (C) theft by extortion, Section 76-6-406; and
5787 (ii) punishable by a maximum term of imprisonment of more than one year;
5788 (k) an offense of receiving stolen property that is punishable by a maximum term of
5789 imprisonment of more than one year, Section 76-6-408;
5790 (l) a financial card transaction offense punishable by a maximum term of imprisonment
5791 of more than one year, Section 76-6-506.2, 76-6-506.3, 76-6-506.5, or 76-6-506.6;
5792 (m) bribery of a labor official, Section 76-6-509;
5793 (n) bribery or threat to influence a publicly exhibited contest, Section 76-6-514;
5794 (o) a criminal simulation offense punishable by a maximum term of imprisonment of
5795 more than one year, Section 76-6-518;
5796 (p) criminal usury, Section 76-6-520;
5797 (q) [~~a fraudulent insurance act offense~~] insurance fraud punishable by a maximum term
5798 of imprisonment of more than one year, Section 76-6-521;
5799 (r) a violation of Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by
5800 a maximum term of imprisonment of more than one year, Section 76-6-703;
5801 (s) bribery to influence official or political actions, Section 76-8-103;
5802 (t) misusing public money or public property, Section 76-8-402;
5803 (u) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
5804 (v) retaliation against a witness, victim, or informant, Section 76-8-508.3;
5805 (w) tampering with a juror, retaliation against a juror, Section 76-8-508.5;
5806 (x) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

- 5807 (y) obstruction of justice, Section 76-8-306;
- 5808 (z) destruction of property to interfere with preparation for defense or war, Section
- 5809 76-8-802;
- 5810 (aa) an attempt to commit crimes of sabotage, Section 76-8-804;
- 5811 (bb) conspiracy to commit crimes of sabotage, Section 76-8-805;
- 5812 (cc) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 5813 (dd) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 5814 (ee) riot punishable by a maximum term of imprisonment of more than one year,
- 5815 Section 76-9-101;
- 5816 (ff) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a
- 5817 maximum term of imprisonment of more than one year, Section 76-9-301.1;
- 5818 (gg) possession, use, or removal of an explosive, chemical, or incendiary device and
- 5819 parts, Section 76-10-306;
- 5820 (hh) delivery to a common carrier or mailing of an explosive, chemical, or incendiary
- 5821 device, Section 76-10-307;
- 5822 (ii) exploiting prostitution, Section 76-10-1305;
- 5823 (jj) aggravated exploitation of prostitution, Section 76-10-1306;
- 5824 (kk) bus hijacking or assault with intent to commit hijacking, Section 76-10-1504;
- 5825 (ll) discharging firearms and hurling missiles, Section 76-10-1505;
- 5826 (mm) violations of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act, and
- 5827 the offenses listed under the definition of unlawful activity in the act, including the offenses not
- 5828 punishable by a maximum term of imprisonment of more than one year when those offenses
- 5829 are investigated as predicates for the offenses prohibited by the act, Section 76-10-1602;
- 5830 (nn) communications fraud, Section 76-10-1801;
- 5831 (oo) money laundering, Sections 76-10-1903 and 76-10-1904; or
- 5832 (pp) reporting by a person engaged in a trade or business when the offense is
- 5833 punishable by a maximum term of imprisonment of more than one year, Section 76-10-1906.

5834 Section 148. Section 77-36-1.1 is amended to read:

5835 **77-36-1.1. Enhancement of offense and penalty for subsequent domestic violence**
5836 **offenses.**

5837 (1) As used in this section:

5838 (a) (i) "Convicted" means a conviction by plea or verdict of a crime or offense.

5839 (ii) "Convicted" includes:

5840 (A) a plea of guilty or guilty and mentally ill;

5841 (B) a plea of no contest; and

5842 (C) the acceptance by the court of a plea in abeyance under Title 77, Chapter 2a, Pleas
5843 in Abeyance, regardless of whether the charge is subsequently reduced or dismissed in
5844 accordance with the plea in abeyance agreement.

5845 (iii) "Convicted" does not include an adjudication in juvenile court.

5846 ~~[(b) "Criminal mischief offense" means commission or attempt to commit an offense~~
5847 ~~under Section 76-6-106 by one cohabitant against another.]~~

5848 ~~[(c)]~~ (b) "Offense against the person" means commission or attempt to commit an
5849 offense under Title 76, Chapter 5, Part 1, Assault and Related Offenses, Part 2, Criminal
5850 Homicide, Part 3, Kidnapping, Trafficking, and Smuggling, Part 4, Sexual Offenses, or Part 7,
5851 Genital Mutilation, by one cohabitant against another.

5852 (c) "Property damage offense" means the commission or attempt to commit an offense
5853 under Section 76-6-106.1 by one cohabitant against another.

5854 (d) "Qualifying domestic violence offense" means:

5855 (i) a domestic violence offense in Utah; or

5856 (ii) an offense in any other state, or in any district, possession, or territory of the United
5857 States, that would be a domestic violence offense under Utah law.

5858 (2) An individual who is convicted of a domestic violence offense is guilty of a class B
5859 misdemeanor if:

5860 (a) the domestic violence offense described in this Subsection (2) is designated by law

5861 as a class C misdemeanor; and

5862 (b) the individual commits or is convicted of the domestic violence offense described
5863 in this Subsection (2):

5864 (i) within 10 years after the day on which the individual is convicted of a qualifying
5865 domestic violence offense that is not a criminal mischief offense; or

5866 (ii) within five years after the day on which the individual is convicted of a criminal
5867 mischief offense.

5868 (3) An individual who is convicted of a domestic violence offense is guilty of a class A
5869 misdemeanor if:

5870 (a) the domestic violence offense described in this Subsection (3) is designated by law
5871 as a class B misdemeanor; and

5872 (b) the individual commits or is convicted of the domestic violence offense described
5873 in this Subsection (3):

5874 (i) within 10 years after the day on which the individual is convicted of a qualifying
5875 domestic violence offense that is not a criminal mischief offense; or

5876 (ii) within five years after the day on which the individual is convicted of a criminal
5877 mischief offense.

5878 (4) An individual who is convicted of a domestic violence offense is guilty of a third
5879 degree felony if:

5880 (a) the domestic violence offense described in this Subsection (4) is designated by law
5881 as a class B misdemeanor offense against the person and the individual:

5882 (i) (A) commits or is convicted of the domestic violence offense described in this
5883 Subsection (4) within 10 years after the day on which the individual is convicted of a
5884 qualifying domestic violence offense that is not a criminal mischief offense; and

5885 (B) is convicted of another qualifying domestic violence offense that is not a criminal
5886 mischief offense after the day on which the individual is convicted of the qualifying domestic
5887 violence offense described in Subsection (4)(a)(i)(A) and before the day on which the

5888 individual is convicted of the domestic violence offense described in this Subsection (4);
5889 (ii) (A) commits or is convicted of the domestic violence offense described in this
5890 Subsection (4) within five years after the day on which the individual is convicted of a criminal
5891 mischief offense; and
5892 (B) is convicted of another criminal mischief offense after the day on which the
5893 individual is convicted of the criminal mischief offense described in Subsection (4)(a)(ii)(A)
5894 and before the day on which the individual is convicted of the domestic violence offense
5895 described in this Subsection (4); or
5896 (iii) commits or is convicted of the domestic violence offense described in this
5897 Subsection (4) within 10 years after the day on which the individual is convicted of a
5898 qualifying domestic violence offense that is not a criminal mischief offense and within five
5899 years after the day on which the individual is convicted of a criminal mischief offense; and
5900 (b) (i) the domestic violence offense described in this Subsection (4) is designated by
5901 law as a class A misdemeanor; and
5902 (ii) the individual commits or is convicted of the domestic violence offense described
5903 in this Subsection (4):
5904 (A) within 10 years after the day on which the individual is convicted of a qualifying
5905 domestic violence offense that is not a criminal mischief offense; or
5906 (B) within five years after the day on which the individual is convicted of a criminal
5907 mischief offense.
5908 Section 149. Section **77-42-105** is amended to read:
5909 **77-42-105. Registerable offenses.**
5910 A person shall be required to register with the Office of the Attorney General for a
5911 conviction of any of the following offenses as a second degree felony:
5912 (1) Section 61-1-1 or Section 61-1-2, securities fraud;
5913 (2) Section 76-6-405, theft by deception;
5914 (3) Section 76-6-513, unlawful dealing of property by fiduciary;

- 5915 (4) Section 76-6-521, [~~fraudulent~~] insurance fraud;
- 5916 (5) Section 76-6-1203, mortgage fraud;
- 5917 (6) Section 76-10-1801, communications fraud;
- 5918 (7) Section 76-10-1903, money laundering; and
- 5919 (8) Section 76-10-1603, pattern of unlawful activity, if at least one of the unlawful
- 5920 activities used to establish the pattern of unlawful activity is an offense listed in Subsections
- 5921 (1) through (7).

5922 Section 150. Section 78B-3-108 is amended to read:

5923 **78B-3-108. Shoplifting -- Merchant's rights -- Civil liability for shoplifting by**
5924 **adult or minor -- Criminal conviction not a prerequisite for civil liability -- Written notice**
5925 **required for penalty demand.**

5926 (1) As used in this section:

5927 (a) "Merchandise" has the same meaning as provided in Section 76-6-601.

5928 (b) "Merchant" has the same meaning as provided in Section 76-6-601.

5929 (c) "Minor" has the same meaning as provided in Section 76-6-601.

5930 (d) "Premises" has the same meaning as "retail mercantile establishment" found in
5931 Section 76-6-601.

5932 (2) (a) A merchant may request an individual on the merchant's premises to place or
5933 keep in full view any merchandise the individual may have removed, or which the merchant
5934 has reason to believe the individual may have removed, from its place of display or elsewhere,
5935 whether for examination, purchase, or for any other reasonable purpose.

5936 (b) The merchant may not be criminally or civilly liable for having made the request.

5937 (3) (a) A merchant who has reason to believe that an individual has committed any of
5938 the offenses listed in Subsection [~~76-6-412(1)(b)~~] 76-6-404(3)(b)(iii)(A), (B), or (C) and that
5939 the merchant can recover the merchandise by taking the individual into custody and detaining
5940 the individual may, for the purpose of attempting to recover the merchandise or for the purpose
5941 of informing a peace officer of the circumstances of the detention, take the individual into

5942 custody and detain the individual in a reasonable manner and for a reasonable length of time.

5943 (b) Neither the merchant nor the merchant's employee may be criminally or civilly
5944 liable for false arrest, false imprisonment, slander, or unlawful detention or for any other type
5945 of claim or action unless the custody and detention are unreasonable under all the
5946 circumstances.

5947 (4) (a) A merchant may prohibit an individual who has committed any of the offenses
5948 listed in Subsection [~~76-6-412(1)(b)~~] 76-6-404(3)(b)(iii) from reentering the premises on which
5949 the individual has committed the offense.

5950 (b) The merchant shall give written notice of this prohibition to the individual under
5951 Subsection (4)(a). The notice may be served by:

5952 (i) delivering a copy to the individual personally;

5953 (ii) sending a copy through registered or certified mail addressed to the individual at
5954 the individual's residence or usual place of business;

5955 (iii) leaving a copy with an individual of suitable age and discretion at either location
5956 under Subsection (4)(b)(ii) and mailing a copy to the individual at the individual's residence or
5957 place of business if the individual is absent from the residence or usual place of business; or

5958 (iv) affixing a copy in a conspicuous place at the individual's residence or place of
5959 business.

5960 (c) The individual serving the notice may authenticate service with the individual's
5961 signature, the method of service, and legibly documenting the date and time of service.

5962 (5) An adult who commits any of the offenses listed in Subsection [~~76-6-412(1)(b)~~]
5963 76-6-404(3)(b)(iii)(A), (B), or (C) is also liable in a civil action for:

5964 (a) actual damages;

5965 (b) a penalty to the merchant in the amount of the retail price of the merchandise not to
5966 exceed \$1,000; and

5967 (c) an additional penalty as determined by the court of not less than \$100 nor more than
5968 \$500, plus court costs and reasonable attorney fees.

5969 (6) A minor who commits any of the offenses listed in Subsection [~~76-6-412(1)(b)~~
5970 ~~76-6-404(3)(b)(iii)(A), (B), or (C)~~ and the minor's parents or legal guardian are jointly and
5971 severally liable in a civil action to the merchant for:

5972 (a) actual damages;

5973 (b) a penalty to be remitted to the merchant in the amount of the retail price of the
5974 merchandise not to exceed \$500 plus an additional penalty as determined by the court of not
5975 less than \$50 nor more than \$500; and

5976 (c) court costs and reasonable attorney fees.

5977 (7) A parent or guardian is not liable for damages under this section if the parent or
5978 guardian made a reasonable effort to restrain the wrongful taking and reported it to the
5979 merchant involved or to the law enforcement agency having primary jurisdiction once the
5980 parent or guardian knew of the minor's unlawful act. A report is not required under this section
5981 if the minor was arrested or apprehended by a peace officer or by anyone acting on behalf of
5982 the merchant involved.

5983 (8) A conviction in a criminal action for any of the offenses listed in Subsection
5984 [~~76-6-412(1)(b)~~ ~~76-6-404(3)(b)(iii)(A), (B), or (C)~~ is not a condition precedent to a civil
5985 action authorized under Subsection (5) or (6).

5986 (9) (a) A merchant demanding payment of a penalty under Subsection (5) or (6) shall
5987 give written notice to the individual or individuals from whom the penalty is sought. The
5988 notice shall state:

5989 "IMPORTANT NOTICE: The payment of any penalty demanded of you does not
5990 prevent criminal prosecution under a related criminal provision."

5991 (b) This notice shall be boldly and conspicuously displayed, in at least the same size
5992 type as is used in the demand, and shall be sent with the demand for payment of the penalty
5993 described in Subsection (5) or (6).

5994 (10) The provision of Section ~~78B-8-201~~ requiring that compensatory or general
5995 damages be awarded in order to award punitive damages does not prohibit an award of a

5996 penalty under Subsection (5) or (6) whether or not restitution has been paid to the merchant
5997 either prior to or as part of a civil action.

5998 Section 151. Section **78B-9-104** is amended to read:

5999 **78B-9-104. Grounds for relief -- Retroactivity of rule.**

6000 (1) Unless precluded by Section **78B-9-106** or **78B-9-107**, an individual who has been
6001 convicted and sentenced for a criminal offense may file an action in the district court of
6002 original jurisdiction for postconviction relief to vacate or modify the conviction or sentence
6003 upon the following grounds:

6004 (a) the conviction was obtained or the sentence was imposed in violation of the United
6005 States Constitution or Utah Constitution;

6006 (b) the conviction was obtained or the sentence was imposed under a statute that is in
6007 violation of the United States Constitution or Utah Constitution, or the conduct for which the
6008 petitioner was prosecuted is constitutionally protected;

6009 (c) the sentence was imposed or probation was revoked in violation of the controlling
6010 statutory provisions;

6011 (d) the petitioner had ineffective assistance of counsel in violation of the United States
6012 Constitution or Utah Constitution;

6013 (e) newly discovered material evidence exists that requires the court to vacate the
6014 conviction or sentence, because:

6015 (i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of
6016 trial or sentencing or in time to include the evidence in any previously filed post-trial motion or
6017 postconviction proceeding, and the evidence could not have been discovered through the
6018 exercise of reasonable diligence;

6019 (ii) the material evidence is not merely cumulative of evidence that was known;

6020 (iii) the material evidence is not merely impeachment evidence; and

6021 (iv) viewed with all the other evidence, the newly discovered material evidence
6022 demonstrates that no reasonable trier of fact could have found the petitioner guilty of the

6023 offense or subject to the sentence received;

6024 (f) the petitioner can prove that:

6025 (i) biological evidence, as that term is defined in Section 53-20-101, relevant to the
6026 petitioner's conviction was not preserved in accordance with Title 53, Chapter 20, Forensic
6027 Biological Evidence Preservation;

6028 (ii) (A) the biological evidence described in Subsection (1)(f)(i) was not tested
6029 previously; or

6030 (B) if the biological evidence described in Subsection (1)(f)(i) was tested previously,
6031 there is a material change in circumstance, including a scientific or technological advance, that
6032 would make it plausible that a test of the biological evidence described in Subsection (1)(f)(i)
6033 would produce a favorable test result for the petitioner; and

6034 (iii) a favorable result described in Subsection (1)(f)(ii), which is presumed for
6035 purposes of the petitioner's action under this section, when viewed with all the other evidence,
6036 demonstrates a reasonable probability of a more favorable outcome at trial for the petitioner;

6037 (g) the petitioner can prove entitlement to relief under a rule announced by the United
6038 States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction
6039 and sentence became final on direct appeal, and that:

6040 (i) the rule was dictated by precedent existing at the time the petitioner's conviction or
6041 sentence became final; or

6042 (ii) the rule decriminalizes the conduct that comprises the elements of the crime for
6043 which the petitioner was convicted; or

6044 (h) the petitioner committed any of the following offenses while subject to force, fraud,
6045 or coercion, as defined in Section 76-5-308:

6046 (i) Section 58-37-8, possession of a controlled substance;

6047 (ii) Section 76-10-1304, aiding prostitution;

6048 (iii) Section 76-6-206, criminal trespass;

6049 (iv) Section 76-6-413, theft;

- 6050 (v) Section 76-6-502, possession of forged writing or device for writing;
- 6051 (vi) [~~Sections 76-6-602 through 76-6-608, retail theft~~] any offense in Title 76, Chapter
- 6052 6, Part 6, Retail Theft;
- 6053 (vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification
- 6054 document;
- 6055 (viii) Section 76-9-702, lewdness;
- 6056 (ix) Section 76-10-1302, prostitution; or
- 6057 (x) Section 76-10-1313, sexual solicitation.
- 6058 (2) The court may not grant relief from a conviction or sentence unless in light of the
- 6059 facts proved in the postconviction proceeding, viewed with the evidence and facts introduced at
- 6060 trial or during sentencing:
- 6061 (a) the petitioner establishes that there would be a reasonable likelihood of a more
- 6062 favorable outcome; or
- 6063 (b) if the petitioner challenges the conviction or the sentence on grounds that the
- 6064 prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner
- 6065 establishes that the false testimony, in any reasonable likelihood, could have affected the
- 6066 judgment of the fact finder.
- 6067 (3) (a) The court may not grant relief from a conviction based on a claim that the
- 6068 petitioner is innocent of the crime for which convicted except as provided in Part 3,
- 6069 Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.
- 6070 (b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction
- 6071 Determination of Factual Innocence, of this chapter may not be filed as part of a petition under
- 6072 this part, but shall be filed separately and in conformity with the provisions of Part 3,
- 6073 Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.
- 6074 Section 152. Section **80-6-610** is amended to read:
- 6075 **80-6-610. Property damage caused by a minor -- Liability of parent or guardian.**
- 6076 (1) A parent or guardian with legal custody of a minor is liable for damages sustained

6077 to property not to exceed \$2,000 when:

6078 (a) the minor intentionally damages, defaces, destroys, or takes the property of another;

6079 (b) the minor recklessly or willfully shoots or propels a missile, or other object at or
6080 against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether
6081 moving or standing; or

6082 (c) the minor intentionally and unlawfully tampers with the property of another and
6083 thereby recklessly endangers human life or recklessly causes or threatens a substantial
6084 interruption or impairment of any public utility service.

6085 (2) A parent or guardian with legal custody of a minor is liable for damages sustained
6086 to property not to exceed \$5,000 when the minor is adjudicated for an offense under Subsection
6087 (1):

6088 (a) for the benefit of, at the direction of, or in association with any criminal street gang
6089 as defined in Section [76-9-802](#); or

6090 (b) to gain recognition, acceptance, membership, or increased status with a criminal
6091 street gang.

6092 (3) A juvenile court may make an order for restitution under Subsection (1) or (2) to be
6093 paid by the minor's parent or guardian if the minor is adjudicated for an offense.

6094 (4) As used in this section, property damage described under Subsection (1)(a) or (c),
6095 or Subsection (2), includes graffiti, as defined in Section ~~[76-6-107]~~ [76-6-101](#).

6096 (5) A court may waive part or all of the liability for damages under this section by the
6097 minor's parent or guardian if, after the minor is adjudicated, the court finds, upon the record:

6098 (a) good cause; or

6099 (b) the parent or guardian:

6100 (i) made a reasonable effort to restrain the wrongful conduct; and

6101 (ii) reported the conduct to the property owner involved or the law enforcement agency
6102 having primary jurisdiction after the parent or guardian knew of the minor's unlawful act.

6103 (6) A report is not required under Subsection (5)(b) from a parent or guardian if the

6104 minor was arrested or apprehended by a peace officer or by anyone acting on behalf of the
6105 property owner involved.

6106 (7) A conviction for criminal mischief under Section 76-6-106, property damage or
6107 destruction under Section 76-6-106.1, criminal trespass under Section 76-6-206, or an
6108 adjudication under Section 80-6-701 is not a condition precedent to a civil action authorized
6109 under Subsection (1) or (2).

6110 (8) A parent or guardian is not liable under Subsection (1) or (2) if the parent or
6111 guardian made a reasonable effort to supervise and direct the minor, or, in the event the parent
6112 or guardian knew in advance of the possible taking, injury, or destruction by the minor, made a
6113 reasonable effort to restrain the minor.

6114 Section 153. Section 80-6-709 is amended to read:

6115 **80-6-709. Payment of fines, fees, restitution, or other costs -- Community or**
6116 **compensatory service -- Property damage -- Unpaid balances.**

6117 (1) (a) If a minor is adjudicated for an offense under Section 80-6-701, the juvenile
6118 court may order a minor to:

- 6119 (i) pay a fine, fee, or other cost;
6120 (ii) pay restitution in accordance with Section 80-6-710; or
6121 (iii) complete community or compensatory service hours.

6122 (b) (i) If the juvenile court orders the minor to pay restitution under Subsection (1)(a), a
6123 juvenile probation officer may permit the minor to complete a work program in lieu of paying
6124 part or all of the restitution by the juvenile court.

6125 (ii) If the juvenile court orders the minor to complete community or compensatory
6126 service hours, a juvenile probation officer may permit the minor to complete a work program to
6127 help the minor complete the community or compensatory service hours.

6128 (c) The juvenile court may, through a juvenile probation officer, encourage the
6129 development of nonresidential employment or a work program to enable a minor to fulfill the
6130 minor's obligations under Subsection (1)(a).

6131 (d) Notwithstanding this section, a juvenile court may not place a minor on a ranch,
6132 forestry camp, or other residential work program for care or work.

6133 (2) If the juvenile court orders a minor to pay a fine, fee, restitution, or other cost, or to
6134 complete community or compensatory service hours, the juvenile court shall consider the
6135 dispositions collectively to ensure that an order:

6136 (a) is reasonable;

6137 (b) prioritizes restitution; and

6138 (c) except for restitution as provided in Subsection 80-6-710(5)(c), takes into account
6139 the minor's ability to pay the fine, fee, or other cost within the presumptive period under
6140 Section 80-6-712 or Section 80-6-802 if the minor is ordered to secure care.

6141 (3) (a) If the juvenile court orders a minor to pay a fine, fee, or other cost, or complete
6142 community or compensatory service hours, the cumulative order shall be limited per criminal
6143 episode as follows:

6144 (i) for a minor under 16 years old at the time of adjudication, the juvenile court may
6145 impose up to \$190 or up to 24 hours of community or compensatory service; and

6146 (ii) for a minor 16 years old or older at the time of adjudication, the juvenile court may
6147 impose up to \$280 or up to 36 hours of community or compensatory service.

6148 (b) The cumulative order under Subsection (3)(a) does not include restitution.

6149 (4) (a) If the juvenile court converts a fine, fee, or restitution amount to compensatory
6150 service hours, the rate of conversion shall be no less than the minimum wage.

6151 (b) If the juvenile court orders a minor to complete community service, the
6152 presumptive service order shall include between five and 10 hours of service.

6153 (c) If a minor completes an approved substance use disorder prevention or treatment
6154 program or other court-ordered condition, the minor may be credited with compensatory
6155 service hours for the completion of the program or condition by the juvenile court.

6156 (5) (a) If a minor commits an offense involving the use of graffiti under Section
6157 76-6-106, 76-6-106.1, or 76-6-206, the juvenile court may order the minor to clean up graffiti

6158 created by the minor or any other individual at a time and place within the jurisdiction of the
6159 juvenile court.

6160 (b) The minor may complete the order of the juvenile court under Subsection (5)(a) in
6161 the presence and under the direct supervision of the minor's parent, guardian, or custodian.

6162 (c) The minor's parent, guardian, or custodian shall report completion of the order to
6163 the juvenile court.

6164 (d) The juvenile court may also require the minor to perform other alternative forms of
6165 restitution or repair to the damaged property in accordance with Section 80-6-710.

6166 (6) (a) Except as provided in Subsection (6)(b), the juvenile court may issue orders
6167 necessary for the collection of restitution and fines ordered under this section, including
6168 garnishments, wage withholdings, and executions.

6169 (b) The juvenile court may not issue an order under Subsection (6)(a) if the juvenile
6170 court orders a disposition that changes custody of a minor, including detention, secure care, or
6171 any other secure or nonsecure residential placement.

6172 (7) Any information necessary to collect unpaid fines, fees, assessments, or restitution
6173 may be forwarded to employers, financial institutions, law enforcement, constables, the Office
6174 of Recovery Services, or other agencies for purposes of enforcing an order under this section.

6175 (8) (a) If, before the entry of any order terminating the juvenile court's continuing
6176 jurisdiction over a minor's case, there remains an unpaid balance for any fine, fee, or restitution
6177 ordered by the juvenile court, the juvenile court shall:

6178 (i) record all pertinent information for the unpaid balance in the minor's file; and

6179 (ii) if there is an unpaid amount of restitution, record the amount of unpaid restitution
6180 as a civil judgment and list the victim, or the estate of the victim, as the judgment creditor in
6181 the civil judgment.

6182 (b) The juvenile court may not transfer responsibility to collect unpaid fines, fees,
6183 surcharges, and restitution for a minor's case to the Office of State Debt Collection created in
6184 Section 63A-3-502.

- 6185 Section 154. **Repealer.**
- 6186 This bill repeals:
- 6187 Section **76-6-412**, **Theft -- Classification of offenses -- Action for treble damages.**
- 6188 Section **76-6-506.5**, **Financial transaction card offenses -- Classification -- Multiple**
- 6189 **violations.**
- 6190 Section **76-6-606**, **Penalty.**
- 6191 Section **76-6-701**, **Computer Crimes Act -- Short title.**
- 6192 Section **76-6-802**, **Presumption of intent.**
- 6193 Section **76-6-804**, **"Book or other library materials" defined.**
- 6194 Section **76-6-805**, **Penalty.**
- 6195 Section **76-6-903**, **Penalties.**
- 6196 Section **76-6-1004**, **Presumptions and defenses.**
- 6197 Section **76-6-1201**, **Title.**
- 6198 Section **76-6-1204**, **Classification of offense.**
- 6199 Section **76-6-1301**, **Title.**
- 6200 Section **76-6-1401**, **Title.**
- 6201 Section **76-6-1407**, **Violation by dealer -- Penalty -- Local regulation not less**
- 6202 **stringent.**
- 6203 Section **76-6a-1**, **Short title.**
- 6204 Section **76-6a-3**, **Schemes prohibited -- Violation as deceptive consumer sales**
- 6205 **practice -- Prosecution of civil violations.**
- 6206 Section **76-6a-4**, **Operation as felony -- Participation as misdemeanor --**
- 6207 **Investigation -- Prosecution.**
- 6208 Section **76-6a-5**, **Plan provisions not constituting defenses.**