

Representative Kera Birkeland proposes the following substitute bill:

VICTIM SERVICES AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to certain victims of sexual crimes including an abortion based upon rape or incest.

Highlighted Provisions:

This bill:

- ▶ creates and modifies definitions;
- ▶ provides that a person operating a sexual assault hotline service may, when applicable, provide a victim of sexual assault with information on how to access free emergency contraception and other services;
- ▶ requires the Department of Health and Human Services to provide to certain entities information about how a victim of sexual assault may access emergency contraception and other services;
- ▶ requires a law enforcement officer's annual training to include training on responses to sexual trauma and investigations of sexual assault and sexual abuse;
- ▶ establishes law enforcement agency policy, public information, and reporting requirements concerning sexual assault offenses and investigations;
- ▶ requires the State Commission on Criminal and Juvenile Justice (commission) to receive, compile, and publish data concerning sexual assault offenses;



- 26 ▶ provides that a law enforcement agency not in compliance with sexual assault
- 27 offense reporting requirements may not receive grants from the commission;
- 28 ▶ provides for a victim reparation award:
 - 29 • for mental health counseling for a victim of sexual assault; and
 - 30 • for a victim of sexual assault who becomes pregnant from the sexual assault,
 - 31 health care for the victim during the duration of the victim's pregnancy and for
 - 32 the victim and the victim's child for one year after the child is born;
- 33 ▶ restricts an abortion based upon rape or incest to a pregnancy in which the unborn
- 34 child has not reached 18 weeks gestational age;
- 35 ▶ amends verification and reporting procedures for abortions based upon rape or
- 36 incest;
- 37 ▶ requires the department to receive, compile, and create a report concerning certain
- 38 information regarding abortions based upon rape or incest and provide the report to
- 39 the Health and Human Services Interim Committee; and
- 40 ▶ makes technical and conforming changes.

41 **Money Appropriated in this Bill:**

42 This bill appropriates in fiscal year 2024:

- 43 ▶ to Department of Public Safety - Peace Officer Standards and Training, as a
- 44 One-time appropriation:
 - 45 • from the General Fund, One-time, \$10,000.

46 **Other Special Clauses:**

47 None

48 **Utah Code Sections Affected:**

49 AMENDS:

- 50 **53-6-202**, as last amended by Laws of Utah 2021, First Special Session, Chapter 1
- 51 **53-10-908**, as renumbered and amended by Laws of Utah 2022, Chapter 430
- 52 **63A-16-1002**, as enacted by Laws of Utah 2022, Chapter 390 and last amended by
- 53 Coordination Clause, Laws of Utah 2022, Chapter 390
- 54 **63M-7-204**, as last amended by Laws of Utah 2022, Chapter 187
- 55 **63M-7-218**, as enacted by Laws of Utah 2022, Chapter 390 and last amended by
- 56 Coordination Clause, Laws of Utah 2022, Chapter 390

57 **63M-7-511**, as last amended by Laws of Utah 2020, Chapter 149
 58 **76-7-302**, as last amended by Laws of Utah 2022, Chapter 335
 59 **76-7-302.5**, as enacted by Laws of Utah 2019, Chapter 208
 60 **76-7-313**, as last amended by Laws of Utah 2019, Chapters 124, 208
 61 **76-7a-101**, as last amended by Laws of Utah 2021, Chapter 262
 62 **76-7a-201**, as enacted by Laws of Utah 2020, Chapter 279

63 ENACTS:

64 **26-21b-202**, Utah Code Annotated 1953
 65 **53-22-101**, Utah Code Annotated 1953
 66 **53-22-102**, Utah Code Annotated 1953
 67 **53-22-103**, Utah Code Annotated 1953

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

70 Section 1. Section **26-21b-202** is enacted to read:

71 **26-21b-202. Sexual assault hotline service -- Emergency contraception access.**

72 (1) As used in this section, "sexual assault hotline service" means a telephone hotline,
 73 online chat hotline, or similar method of communication that provides information or
 74 counseling services for a victim of sexual assault.

75 (2) A person who operates a sexual assault hotline service available to a resident of this
 76 state shall create and maintain a policy that encourages the sexual assault hotline service to
 77 provide, when applicable, a victim of sexual assault with information on how to access:

78 (a) free emergency contraception;

79 (b) law enforcement; and

80 (c) medical and mental health services.

81 (3) The department shall provide information about how a victim of sexual assault may
 82 access free emergency contraception and other medical and mental health services to:

83 (a) victims of sexual assault;

84 (b) sexual assault hotline services that are available to residents of this state; and

85 (c) other providers who provide sexual assault support services to victims of sexual
 86 assault in this state.

87 (4) The department may adopt rules in accordance with Title 63G, Chapter 3, Utah

88 Administrative Rulemaking Act, to carry out the provisions of Subsection (3).

89 Section 2. Section **53-6-202** is amended to read:

90 **53-6-202. Basic training course -- Completion required -- Annual training --**

91 **Prohibition from exercising powers -- Reinstatement.**

92 (1) (a) The director shall:

93 (i) (A) suggest and prepare subject material; and

94 (B) schedule instructors for basic training courses; or

95 (ii) review the material and instructor choices submitted by a certified academy.

96 (b) The subject material, instructors, and schedules shall be approved or disapproved
97 by a majority vote of the council.

98 (2) The materials shall be reviewed and approved by the council on or before July 1st
99 of each year and may from time to time be changed or amended by majority vote of the council.

100 (3) The basic training in a certified academy:

101 (a) shall be appropriate for the basic training of peace officers in the techniques of law
102 enforcement in the discretion of the director; and

103 (b) may not include the use of chokeholds, carotid restraints, or any act that impedes
104 the breathing or circulation of blood likely to produce a loss of consciousness, as a valid
105 method of restraint.

106 (4) (a) All peace officers shall satisfactorily complete the basic training course or the
107 waiver process provided for in this chapter as well as annual certified training of not less than
108 40 hours as the director, with the advice and consent of the council, directs.

109 (b) A peace officer who fails to satisfactorily complete the annual training shall
110 automatically be prohibited from exercising peace officer powers until any deficiency is made
111 up.

112 (c) (i) Beginning July 1, 2021, the annual training shall include no less than 16 hours of
113 training focused on mental health and other crisis intervention responses, arrest control, and
114 de-escalation training.

115 (ii) Standards for the training shall be determined by each law enforcement agency or
116 department and approved by the director or designee.

117 (iii) Each law enforcement agency or department shall include a breakdown of the 16
118 hours within the annual audit submitted to the division.

119 (5) Beginning July 1, 2021, the director shall ensure that annual training covers
120 intervention responses for mental illnesses, autism spectrum disorder, and other neurological
121 and developmental disorders.

122 (6) Beginning July 1, 2023, the director shall ensure that annual training covers at least
123 one hour of training on responses to sexual traumas and investigations of sexual assault and
124 sexual abuse in accordance with Section [53-10-908](#).

125 Section 3. Section **53-10-908** is amended to read:

126 **53-10-908. Law enforcement -- Training -- Sexual assault, sexual abuse, and**
127 **human trafficking.**

128 (1) The department and the Utah Prosecution Council shall develop training in
129 trauma-informed responses and investigations of sexual assault and sexual abuse, which
130 include, but are not limited to, the following:

131 (a) recognizing the symptoms of trauma;

132 (b) understanding the impact of trauma on a victim;

133 (c) responding to the needs and concerns of a victim of sexual assault or sexual abuse;

134 (d) delivering services to victims of sexual assault or sexual abuse in a compassionate,
135 sensitive, and nonjudgmental manner;

136 (e) understanding cultural perceptions and common myths of sexual assault and sexual
137 abuse; and

138 (f) techniques of writing reports in accordance with Subsection (5).

139 (2) (a) [~~The~~] In accordance with Section [53-6-202](#), the department and the Utah
140 Prosecution Council shall offer the training in Subsection (1) to all certified law enforcement
141 officers in the state.

142 (b) The training for all law enforcement officers may be offered through an online
143 course, developed by the department and the Utah Prosecution Council.

144 (3) The training listed in Subsection (1) shall be offered by the Peace Officer Standards
145 and Training division to all persons seeking certification as a peace officer.

146 (4) (a) The department and the Utah Prosecution Council shall develop and offer an
147 advanced training course for officers who investigate cases of sexual assault or sexual abuse.

148 (b) The advanced training course shall include:

149 (i) all criteria listed in Subsection (1); and

150 (ii) interviewing techniques in accordance with the curriculum standards in Subsection
151 (5).

152 (5) The department shall consult with the Utah Prosecution Council to develop the
153 specific training requirements of this section, including curriculum standards for report writing
154 and response to sexual assault and sexual abuse, including trauma-informed and
155 victim-centered interview techniques, which have been demonstrated to minimize
156 retraumatizing victims.

157 (6) The Office of the Attorney General shall develop and offer training for law
158 enforcement officers in investigating human trafficking offenses.

159 (7) The training described in Subsection (6) shall be offered to all law enforcement
160 officers in the state by July 1, 2020.

161 (8) The training described in Subsection (6) shall be offered by the Peace Officer
162 Standards and Training division to all persons seeking certification as a peace officer, in
163 conjunction with the training described in Subsection (1), beginning July 1, 2021.

164 (9) The Office of the Attorney General, the department, and the Utah Prosecution
165 Council shall consult with one another to provide the training described in Subsection (6)
166 jointly with the training described in Subsection (1) as reasonably practicable.

167 Section 4. Section **53-22-101** is enacted to read:

168 **CHAPTER 22. SEXUAL ASSAULT OFFENSE POLICY AND REPORTING**
169 **REQUIREMENTS**

170 **53-22-101. Sexual assault offense policy and public information requirements for**
171 **law enforcement agencies.**

172 (1) (a) Beginning January 1, 2024, a law enforcement agency shall create and maintain
173 a policy regarding the law enforcement agency's processes for handling sexual assault
174 investigations.

175 (b) A policy described under Subsection (1)(a) shall include current best practices for
176 handling sexual assault investigations, including:

177 (i) protocols and training on responses to sexual trauma;

178 (ii) emergency response procedures, including prompt contact with the victim and the
179 preservation of evidence; and

180 (iii) referrals to sexual assault support services.

181 (c) A law enforcement agency shall publicly post on the law enforcement agency's
182 website the policy described in Subsection (1)(a).

183 (2) Beginning January 1, 2024, a law enforcement agency shall create and publicly post
184 on the law enforcement agency's website a guide for victims of sexual assault that includes:

185 (a) a description of the law enforcement agency's processes for handling sexual assault
186 investigations;

187 (b) contact information for victims of sexual assault to obtain more information from
188 the law enforcement agency; and

189 (c) referral information for sexual assault victim support services.

190 Section 5. Section **53-22-102** is enacted to read:

191 **53-22-102. Sexual assault offense reporting requirements for law enforcement**
192 **agencies.**

193 (1) As used in this section:

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

196 (b) "Sexual assault offense" means:

197 (i) rape, Section [76-5-402](#);

198 (ii) rape of a child, Section [76-5-402.1](#);

199 (iii) object rape, Section [76-5-402.2](#);

200 (iv) object rape of a child, Section [76-5-402.3](#);

201 (v) forcible sodomy, Section [76-5-403](#);

202 (vi) sodomy on a child, Section [76-6-403.1](#);

203 (vii) forcible sexual abuse, Section [76-5-404](#);

204 (viii) sexual abuse of a child, Section [76-5-404.1](#);

205 (ix) aggravated sexual abuse of a child, Section [76-5-404.3](#);

206 (x) aggravated sexual assault, Section [76-5-405](#); or

207 (xi) sexual battery, Section [76-9-702.1](#).

208 (2) (a) Beginning January 1, 2024, a law enforcement agency shall annually, on or
209 before April 30, submit a report to the commission for the previous calendar year containing
210 the number of each type of sexual assault offense that:

211 (i) was reported to the law enforcement agency;

- 212 (ii) was investigated by a detective; and
- 213 (iii) was referred to a prosecutor for prosecution.
- 214 (b) A law enforcement agency shall:
- 215 (i) compile the report described in Subsection (2)(a) for each calendar year in the
- 216 standardized format developed by the commission under Subsection (3); and
- 217 (ii) publicly post the information reported in Subsection (2)(a) on the law enforcement
- 218 agency's website.
- 219 (3) The commission shall:
- 220 (a) develop a standardized format for reporting the data described in Subsection (2);
- 221 (b) compile the data submitted under Subsection (2); and
- 222 (c) annually on or before August 1, publish a report of the data described in Subsection
- 223 (2) on the commission's website.

224 Section 6. Section **53-22-103** is enacted to read:

225 **53-22-103. Exemption.**

226 The provisions of this chapter do not apply to a law enforcement agency created under

227 Section [41-3-104](#).

228 Section 7. Section **63A-16-1002** is amended to read:

229 **63A-16-1002. Criminal justice database.**

- 230 (1) The commission shall oversee the creation and management of a [~~Criminal Justice~~
- 231 ~~Database~~] criminal justice database for information and data required to be reported to the
- 232 commission, organized by county, and accessible to all criminal justice agencies in the state.
- 233 (2) The division shall assist with the development and management of the database.
- 234 (3) The division, in collaboration with the commission, shall create:
- 235 (a) master standards and formats for information submitted to the database;
- 236 (b) a portal, bridge, website, or other method for reporting entities to provide the
- 237 information;
- 238 (c) a master data management index or system to assist in the retrieval of information
- 239 in the database;
- 240 (d) a protocol for accessing information in the database that complies with state
- 241 privacy regulations; and
- 242 (e) a protocol for real-time audit capability of all data accessed through the portal by

243 participating data source, data use entities, and regulators.

244 (4) Each criminal justice agency charged with reporting information to the commission
245 shall provide the data or information to the database in a form prescribed by the commission.

246 (5) The database shall be the repository for the statutorily required data described in:

247 (a) Section 13-53-111, recidivism reporting requirements;

248 (b) Section 17-22-32, county jail reporting requirements;

249 (c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

250 (d) Section 24-4-118, forfeiture reporting requirements;

251 (e) Section 41-6a-511, courts to collect and maintain data;

252 (f) Section 53-22-102, sexual assault offense reporting requirements for law

253 enforcement agencies;

254 [~~(f)~~] (g) Section 63M-7-214, law enforcement agency grant reporting;

255 [~~(g)~~] (h) Section 63M-7-216, prosecutorial data collection;

256 [~~(h)~~] (i) Section 64-13-21, supervision of sentenced offenders placed in community;

257 [~~(i)~~] (j) Section 64-13-25, standards for programs;

258 [~~(j)~~] (k) Section 64-13-45, department reporting requirements;

259 [~~(k)~~] (l) Section 64-13e-104, housing of state probationary inmates or state parole
260 inmates;

261 [~~(l)~~] (m) Section 77-7-8.5, use of tactical groups;

262 [~~(m)~~] (n) Section 77-20-103, release data requirements;

263 [~~(n)~~] (o) Section 77-22-2.5, court orders for criminal investigations;

264 [~~(o)~~] (p) Section 78A-2-109.5, court demographics reporting; and

265 [~~(p)~~] (q) any other statutes which require the collection of specific data and the
266 reporting of that data to the commission.

267 (6) The commission shall report:

268 (a) progress on the database, including creation, configuration, and data entered, to the
269 Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and

270 (b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal
271 Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing
272 Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing
273 Committee not later than January 16, 2023.

274 Section 8. Section **63M-7-204** is amended to read:

275 **63M-7-204. Duties of commission.**

276 (1) The State Commission on Criminal and Juvenile Justice administration shall:

277 (a) promote the commission's purposes as enumerated in Section **63M-7-201**;

278 (b) promote the communication and coordination of all criminal and juvenile justice
279 agencies;

280 (c) study, evaluate, and report on the status of crime in the state and on the
281 effectiveness of criminal justice policies, procedures, and programs that are directed toward the
282 reduction of crime in the state;

283 (d) study, evaluate, and report on programs initiated by state and local agencies to
284 address reducing recidivism, including changes in penalties and sentencing guidelines intended
285 to reduce recidivism, costs savings associated with the reduction in the number of inmates, and
286 evaluation of expenses and resources needed to meet goals regarding the use of treatment as an
287 alternative to incarceration, as resources allow;

288 (e) study, evaluate, and report on policies, procedures, and programs of other
289 jurisdictions which have effectively reduced crime;

290 (f) identify and promote the implementation of specific policies and programs the
291 commission determines will significantly reduce crime in Utah;

292 (g) provide analysis and recommendations on all criminal and juvenile justice
293 legislation, state budget, and facility requests, including program and fiscal impact on all
294 components of the criminal and juvenile justice system;

295 (h) provide analysis, accountability, recommendations, and supervision for state and
296 federal criminal justice grant money;

297 (i) provide public information on the criminal and juvenile justice system and give
298 technical assistance to agencies or local units of government on methods to promote public
299 awareness;

300 (j) promote research and program evaluation as an integral part of the criminal and
301 juvenile justice system;

302 (k) provide a comprehensive criminal justice plan annually;

303 (l) review agency forecasts regarding future demands on the criminal and juvenile
304 justice systems, including specific projections for secure bed space;

305 (m) promote the development of criminal and juvenile justice information systems that
306 are consistent with common standards for data storage and are capable of appropriately sharing
307 information with other criminal justice information systems by:

308 (i) developing and maintaining common data standards for use by all state criminal
309 justice agencies;

310 (ii) annually performing audits of criminal history record information maintained by
311 state criminal justice agencies to assess their accuracy, completeness, and adherence to
312 standards;

313 (iii) defining and developing state and local programs and projects associated with the
314 improvement of information management for law enforcement and the administration of
315 justice; and

316 (iv) establishing general policies concerning criminal and juvenile justice information
317 systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this
318 Subsection (1)(m);

319 (n) allocate and administer grants, from money made available, for approved education
320 programs to help prevent the sexual exploitation of children;

321 (o) allocate and administer grants for law enforcement operations and programs related
322 to reducing illegal drug activity and related criminal activity;

323 (p) request, receive, and evaluate data and recommendations collected and reported by
324 agencies and contractors related to policies recommended by the commission regarding
325 recidivism reduction, including the data described in Section 13-53-111 and Subsection
326 62A-15-103(2)(l);

327 (q) establish and administer a performance incentive grant program that allocates funds
328 appropriated by the Legislature to programs and practices implemented by counties that reduce
329 recidivism and reduce the number of offenders per capita who are incarcerated;

330 (r) oversee or designate an entity to oversee the implementation of juvenile justice
331 reforms;

332 (s) make rules and administer the juvenile holding room standards and juvenile jail
333 standards to align with the Juvenile Justice and Delinquency Prevention Act requirements
334 pursuant to 42 U.S.C. Sec. 5633;

335 (t) allocate and administer grants, from money made available, for pilot qualifying

336 education programs;

337 (u) oversee the trauma-informed justice program described in Section [63M-7-209](#);

338 (v) request, receive, and evaluate the aggregate data collected from prosecutorial
339 agencies and the Administrative Office of the Courts, in accordance with Sections [63M-7-216](#)
340 and [78A-2-109.5](#);

341 (w) report annually to the Law Enforcement and Criminal Justice Interim Committee
342 on the progress made on each of the following goals of the Justice Reinvestment Initiative:

343 (i) ensuring oversight and accountability;

344 (ii) supporting local corrections systems;

345 (iii) improving and expanding reentry and treatment services; and

346 (iv) strengthening probation and parole supervision;

347 (x) compile a report of findings based on the data and recommendations provided
348 under Section [13-53-111](#) and Subsection [62A-15-103\(2\)\(n\)](#) that:

349 (i) separates the data provided under Section [13-53-111](#) by each residential, vocational
350 and life skills program; and

351 (ii) separates the data provided under Subsection [62A-15-103\(2\)\(n\)](#) by each mental
352 health or substance use treatment program; [~~and~~]

353 (y) publish the report described in Subsection (1)(x) on the commission's website and
354 annually provide the report to the Judiciary Interim Committee, the Health and Human Services
355 Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the
356 related appropriations subcommittees[-]; and

357 (z) receive, compile, and publish the data provided under Section [53-22-102](#) on the
358 commission's website.

359 (2) If the commission designates an entity under Subsection (1)(r), the commission
360 shall ensure that the membership of the entity includes representation from the three branches
361 of government and, as determined by the commission, representation from relevant stakeholder
362 groups across all parts of the juvenile justice system, including county representation.

363 Section 9. Section **63M-7-218** is amended to read:

364 **63M-7-218. State grant requirements.**

365 Beginning July 1, 2023, the commission may not award any grant of state funds to any
366 entity subject to, and not in compliance with, the reporting requirements in Subsections

367 63A-16-1002(5)(a) through ~~(p)~~ (p).

368 Section 10. Section 63M-7-511 is amended to read:

369 **63M-7-511. Compensable losses and amounts.**

370 A reparations award under this part may be made if:

371 (1) the reparations officer finds the reparations claim satisfies the requirements for the
372 reparations award under the provisions of this part and the rules of the board;

373 (2) money is available in the fund;

374 (3) the individual for whom the reparations award is to be paid is otherwise eligible
375 under this part; and

376 (4) the reparations claim is for an allowable expense incurred by the victim, as follows:

377 (a) reasonable and necessary charges incurred for products, services, and
378 accommodations;

379 (b) inpatient and outpatient medical treatment and physical therapy, subject to rules
380 made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
381 Act;

382 (c) mental health counseling that:

383 (i) (A) is set forth in a mental health treatment plan that is approved before any
384 payment is made by a reparations officer; and

385 ~~(ii)~~ (B) qualifies within any further rules made by the board in accordance with Title
386 63G, Chapter 3, Utah Administrative Rulemaking Act; or

387 (ii) is for a victim of sexual assault;

388 (d) actual loss of past earnings and anticipated loss of future earnings because of a
389 death or disability resulting from the personal injury at a rate not to exceed 66-2/3% of the
390 individual's weekly gross salary or wages or the maximum amount allowed under the state
391 workers' compensation statute;

392 (e) care of minor children enabling a victim or spouse of a victim, but not both, to
393 continue gainful employment at a rate per child per week as determined under rules established
394 by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

395 (f) funeral and burial expenses for death caused by the criminally injurious conduct,
396 subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah
397 Administrative Rulemaking Act;

398 (g) loss of support to a dependent not otherwise compensated for a pecuniary loss for
399 personal injury, for as long as the dependence would have existed had the victim survived, at a
400 rate not to exceed 66-2/3% of the individual's weekly salary or wages or the maximum amount
401 allowed under the state workers' compensation statute, whichever is less;

402 (h) personal property necessary and essential to the health or safety of the victim as
403 defined by rules made by the board in accordance with Title 63G, Chapter 3, Utah
404 Administrative Rulemaking Act; [~~and~~]

405 (i) medical examinations, subject to rules made by the board in accordance with Title
406 63G, Chapter 3, Utah Administrative Rulemaking Act, which may allow for exemptions from
407 Sections [63M-7-509](#), [63M-7-512](#), and [63M-7-513](#)[~~;~~]; and

408 (j) for a victim of sexual assault who becomes pregnant from the sexual assault, health
409 care:

410 (i) for the victim during the duration of the victim's pregnancy if the health care is
411 related to or resulting from the sexual assault or the pregnancy; and

412 (ii) for the victim and the victim's child for one year after the day on which the victim's
413 child is born.

414 Section 11. Section **76-7-302** is amended to read:

415 **76-7-302. Circumstances under which abortion authorized.**

416 (1) As used in this section, "viable" means that the unborn child has reached a stage of
417 fetal development when the unborn child is potentially able to live outside the womb, as
418 determined by the attending physician to a reasonable degree of medical certainty.

419 (2) An abortion may be performed in this state only by a physician.

420 (3) An abortion may be performed in this state only under the following circumstances:

421 (a) the unborn child is not viable; or

422 (b) the unborn child is viable, if:

423 (i) the abortion is necessary to avert:

424 (A) the death of the woman on whom the abortion is performed; or

425 (B) a serious risk of substantial and irreversible impairment of a major bodily function
426 of the woman on whom the abortion is performed;

427 (ii) two physicians who practice maternal fetal medicine concur, in writing, in the
428 patient's medical record that the fetus:

429 (A) has a defect that is uniformly diagnosable and uniformly lethal; or
 430 (B) has a severe brain abnormality that is uniformly diagnosable; or
 431 (iii) (A) the unborn child has not reached 18 weeks gestational age and the woman is
 432 pregnant as a result of:

433 (I) rape, as described in Section 76-5-402;
 434 (II) rape of a child, as described in Section 76-5-402.1; or
 435 (III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; and
 436 (B) before the abortion is performed, the physician who performs the abortion:
 437 (I) verifies that the incident described in Subsection (3)(b)(iii)(A) has been reported to
 438 law enforcement; and

439 (II) if applicable, complies with the requirements of Section 80-2-602.

440 (4) An abortion may be performed only in an abortion clinic or a hospital, unless it is
 441 necessary to perform the abortion in another location due to a medical emergency.

442 (5) A physician who performs an abortion under Subsection (3)(b)(iii) shall:

443 (a) maintain an accurate record as to the manner in which the physician conducted the
 444 verification under Subsection (3)(b)(iii)(B)(I); and

445 (b) report the information described in Subsection (5)(a) to the department in
 446 accordance with Section 76-7-313.

447 Section 12. Section 76-7-302.5 is amended to read:

448 **76-7-302.5. Circumstances under which abortion prohibited.**

449 Notwithstanding any other provision of this part, a person may not perform or attempt
 450 to perform an abortion after the unborn child reaches 18 weeks gestational age unless the
 451 abortion is permissible for a reason described in Subsection 76-7-302(3)(b)(i) or (ii).

452 Section 13. Section 76-7-313 is amended to read:

453 **76-7-313. Department's enforcement responsibility -- Physician's report to**
 454 **department -- Reporting.**

455 (1) In order for the department to maintain necessary statistical information and ensure
 456 enforcement of the provisions of this part:

457 (a) any physician performing an abortion must obtain and record in writing:

458 (i) the age, marital status, and county of residence of the woman on whom the abortion
 459 was performed;

- 460 (ii) the number of previous abortions performed on the woman described in Subsection
461 (1)(a)(i);
- 462 (iii) the hospital or other facility where the abortion was performed;
- 463 (iv) the weight in grams of the unborn child aborted, if it is possible to ascertain;
- 464 (v) the pathological description of the unborn child;
- 465 (vi) the given gestational age of the unborn child;
- 466 (vii) the date the abortion was performed;
- 467 (viii) the measurements of the unborn child, if possible to ascertain;
- 468 (ix) if applicable, the information obtained under Subsection [76-7-302\(5\)](#) or
469 [76-7a-201\(6\)](#); and
- 470 [~~(ix)~~] (x) the medical procedure used to abort the unborn child; and
- 471 (b) the department shall make rules in accordance with Title 63G, Chapter 3, Utah
472 Administrative Rulemaking Act.
- 473 (2) Each physician who performs an abortion shall provide the following to the
474 department within 30 days after the day on which the abortion is performed:
- 475 (a) the information described in Subsection (1);
- 476 (b) a copy of the pathologist's report described in Section [76-7-309](#);
- 477 (c) an affidavit:
- 478 (i) indicating whether the required consent was obtained pursuant to Sections [76-7-305](#)
479 and [76-7-305.5](#);
- 480 (ii) described in Subsection (3), if applicable; and
- 481 (iii) indicating whether at the time the physician performed the abortion, the physician
482 had any knowledge that the pregnant woman sought the abortion solely because the unborn
483 child had or may have had Down syndrome; and
- 484 (d) a certificate indicating:
- 485 (i) whether the unborn child was or was not viable, as defined in Subsection
486 [76-7-302\(1\)](#), at the time of the abortion;
- 487 (ii) whether the unborn child was older than 18 weeks gestational age at the time of the
488 abortion; and
- 489 (iii) if the unborn child was viable, as defined in Subsection [76-7-302\(1\)](#), or older than
490 18 weeks gestational age at the time of the abortion, the reason for the abortion.

491 (3) If the information module or the address to the website is not provided to a
492 pregnant woman, the physician who performs the abortion on the woman shall, within 10 days
493 after the day on which the abortion is performed, provide to the department an affidavit that:

- 494 (a) specifies the information that was not provided to the woman; and
- 495 (b) states the reason that the information was not provided to the woman.

496 (4) All information supplied to the department shall be confidential and privileged
497 pursuant to Title 26, Chapter 25, Confidential Information Release.

498 (5) The department shall pursue all administrative and legal remedies when the
499 department determines that a physician or a facility has not complied with the provisions of this
500 part.

501 (6) (a) The department shall receive, compile, and create a report outlining the data
502 provided under Subsection (1)(a)(ix).

503 (b) Annually on or before November 30, the department shall provide the report
504 described in Subsection (6)(a) to the Health and Human Services Interim Committee.

505 Section 14. Section **76-7a-101** is amended to read:

506 **76-7a-101. Definitions.**

507 As used in this chapter:

508 (1) (a) "Abortion" means:

509 (i) the intentional termination or attempted termination of human pregnancy after
510 implantation of a fertilized ovum through a medical procedure carried out by a physician or
511 through a substance used under the direction of a physician;

512 (ii) the intentional killing or attempted killing of a live unborn child through a medical
513 procedure carried out by a physician or through a substance used under the direction of a
514 physician; or

515 (iii) the intentional causing or attempted causing of a miscarriage through a medical
516 procedure carried out by a physician or through a substance used under the direction of a
517 physician.

518 (b) "Abortion" does not include:

519 (i) removal of a dead unborn child;

520 (ii) removal of an ectopic pregnancy; or

521 (iii) the killing or attempted killing of an unborn child without the consent of the

522 pregnant woman, unless:

523 (A) the killing or attempted killing is done through a medical procedure carried out by
524 a physician or through a substance used under the direction of a physician; and

525 (B) the physician is unable to obtain the consent due to a medical emergency.

526 (2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II
527 abortion clinic licensed by the state.

528 (3) "Department" means the Department of Health.

529 (4) "Down syndrome" means a genetic condition associated with an extra chromosome
530 21, in whole or in part, or an effective trisomy for chromosome 21.

531 (5) "Hospital" means:

532 (a) a general hospital licensed by the department; or

533 (b) a clinic or other medical facility to the extent the clinic or other medical facility is
534 certified by the department as providing equipment and personnel sufficient in quantity and
535 quality to provide the same degree of safety to a pregnant woman and an unborn child as would
536 be provided for the particular medical procedure undertaken by a general hospital licensed by
537 the department.

538 [~~(6)~~] "~~Incest~~" means the same as that term is defined in Section ~~80-1-102~~;

539 [(7)] (6) "Medical emergency" means a condition which, on the basis of the physician's
540 good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the
541 immediate abortion of her pregnancy to avert her death, or for which a delay will create serious
542 risk of substantial and irreversible impairment of major bodily function.

543 [(8)] (7) "Physician" means:

544 (a) a medical doctor licensed to practice medicine and surgery in the state;

545 (b) an osteopathic physician licensed to practice osteopathic medicine in the state; or

546 (c) a physician employed by the federal government who has qualifications similar to
547 an individual described in Subsection [(8)(a)] (7)(a) or (b).

548 [(9)] "~~Rape~~" means the same as that term is defined in Title 76, Utah Criminal Code.]

549 [(10)] (8) (a) "Severe brain abnormality" means a malformation or defect that causes an
550 individual to live in a mentally vegetative state.

551 (b) "Severe brain abnormality" does not include:

552 (i) Down syndrome;

- 553 (ii) spina bifida;
- 554 (iii) cerebral palsy; or
- 555 (iv) any other malformation, defect, or condition that does not cause an individual to
- 556 live in a mentally vegetative state.

557 Section 15. Section **76-7a-201** is amended to read:

558 **76-7a-201. Abortion prohibition -- Exceptions -- Penalties.**

559 (1) An abortion may be performed in this state only under the following circumstances:

560 (a) the abortion is necessary to avert:

561 (i) the death of the woman on whom the abortion is performed; or

562 (ii) a serious risk of substantial and irreversible impairment of a major bodily function

563 of the woman on whom the abortion is performed;

564 (b) two physicians who practice maternal fetal medicine concur, in writing, in the

565 patient's medical record that the fetus:

566 (i) has a defect that is uniformly diagnosable and uniformly lethal; or

567 (ii) has a severe brain abnormality that is uniformly diagnosable; or

568 (c) (i) the unborn child has not reached 18 weeks gestational age and the woman is

569 pregnant as a result of:

570 (A) rape, as described in Section [76-5-402](#);

571 (B) rape of a child, as described in Section [76-5-402.1](#); or

572 (C) incest, as described in Subsection [76-5-406\(2\)\(j\)](#) or Section [76-7-102](#); and

573 (ii) before the abortion is performed, the physician who performs the abortion:

574 (A) verifies that the incident described in Subsection (1)(c)(i) has been reported to law

575 enforcement; and

576 (B) if applicable, complies with requirements related to reporting suspicions of or

577 known child abuse.

578 (2) An abortion may be performed only:

579 (a) by a physician; and

580 (b) in an abortion clinic or a hospital, unless it is necessary to perform the abortion in

581 another location due to a medical emergency.

582 (3) A person who performs an abortion in violation of this section is guilty of a second

583 degree felony.

584 (4) In addition to the penalty described in Subsection (3), the department may take
585 appropriate corrective action against an abortion clinic, including revoking the abortion clinic's
586 license, if a violation of this chapter occurs at the abortion clinic.

587 (5) The department shall report a physician's violation of any provision of this section
588 to the state entity that regulates the licensing of a physician.

589 (6) A physician who performs an abortion under Subsection (1)(c) shall:

590 (a) maintain an accurate record as to the manner in which the physician conducted the
591 verification under Subsection (1)(c)(ii)(A); and

592 (b) report the information described in Subsection (6)(a) to the department in
593 accordance with Section 76-7-313.

594 Section 16. **Appropriation.**

595 The following sums of money are appropriated for the fiscal year beginning July 1,
596 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for
597 fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
598 Act, the Legislature appropriates the following sums of money from the funds or accounts
599 indicated for the use and support of the government of the state of Utah.

600 ITEM 1

601 To Department of Public Safety - Peace Officer Standards and Training

602 From General Fund, One-time 10,000

603 Schedule of Programs:

604 Peace Officer Standards and Training 10,000

605 The Legislature intends that:

606 (1) the appropriation under this item be used for the training program described in
607 Subsections 53-6-202(6) and 53-10-908(2) of this bill; and

608 (2) under Section 63J-1-603, the One-time appropriation provided under this item not
609 lapse at the close of fiscal year 2024 and the use of any nonlapsing funds is limited to the
610 purposes described in Subsection (1) of this item.