

Senator Wayne A. Harper proposes the following substitute bill:

PROPERTY AND CONTRABAND AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Ken Ivory

LONG TITLE

General Description:

This bill amends provisions regarding property and contraband.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions regarding the seizure of property and contraband by a conservation officer for the Division of Wildlife Resources;
- ▶ recodifies Title 24, Forfeiture and Disposition of Property Act, to Title 77, Chapter 11a, Seizure of Property and Contraband, Title 77, Chapter 11b, Forfeiture of Seized Property, and Title 77, Chapter 11c, Retention of Evidence;
- ▶ recodifies Title 53, Chapter 20, Forensic Biological Evidence Preservation, to Title 77, Chapter 11c, Retention of Evidence;
- ▶ recodifies Title 77, Chapter 24a, Lost or Mislaid Personal Property, to Title 77, Chapter 11d, Lost or Mislaid Property;
- ▶ defines terms;
- ▶ amends provisions related to the seizure of property and contraband;
- ▶ amends provisions related to the release of property to an owner, an interest holder, or a person who asserts a claim to property that the agency seeks to forfeit;



- 26 ▶ amends provisions related to the disposal of seized property and contraband;
- 27 ▶ amends provisions related to the forfeiture of seized property;
- 28 ▶ addresses the retention of evidence as an exhibit;
- 29 ▶ establishes the requirements for retaining evidence of a misdemeanor offense,
- 30 including the time periods for retention;
- 31 ▶ provides the requirements for not retaining evidence of a misdemeanor offense,
- 32 including the preservation of sufficient evidence for a prosecution;
- 33 ▶ addresses the retention of evidence for felony offenses;
- 34 ▶ provides the procedure for an agency to request the release or disposal of evidence
- 35 of a misdemeanor offense from a prosecuting attorney; and
- 36 ▶ makes technical and conforming changes.

37 Money Appropriated in this Bill:

38 None

39 Other Special Clauses:

40 None

41 Utah Code Sections Affected:

42 AMENDS:

- 43 **13-32a-104**, as last amended by Laws of Utah 2022, Chapter 201
- 44 **13-32a-109**, as last amended by Laws of Utah 2022, Chapters 201, 274
- 45 **13-32a-116.5**, as last amended by Laws of Utah 2022, Chapters 201, 274
- 46 **17-18a-405**, as last amended by Laws of Utah 2014, Chapter 189
- 47 **23-20-1**, as last amended by Laws of Utah 2013, Chapter 394
- 48 **41-6a-606**, as last amended by Laws of Utah 2022, Chapter 176
- 49 **53-5c-201**, as last amended by Laws of Utah 2021, Chapter 137
- 50 **53-5c-202**, as last amended by Laws of Utah 2021, Chapter 137
- 51 **58-37a-6**, as last amended by Laws of Utah 2015, Chapter 258
- 52 **58-37c-15**, as last amended by Laws of Utah 2015, Chapter 258
- 53 **58-37d-7**, as last amended by Laws of Utah 2015, Chapter 258
- 54 **63A-16-1002**, as enacted by Laws of Utah 2022, Chapter 390 and last amended by
- 55 Coordination Clause, Laws of Utah 2022, Chapter 390
- 56 **63I-1-263**, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236,

57 249, 274, 296, 313, 361, 362, 417, 419, and 472
58 **63J-1-602.1**, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415,
59 and 451

60 **76-5-109.3**, as enacted by Laws of Utah 2022, Chapter 181

61 **76-6-111**, as last amended by Laws of Utah 2021, Chapters 57, 260

62 **76-6-501**, as last amended by Laws of Utah 2016, Chapter 117

63 **76-6-1303**, as last amended by Laws of Utah 2015, Chapter 258

64 **76-10-503**, as last amended by Laws of Utah 2021, Chapter 262

65 **76-10-1108**, as last amended by Laws of Utah 2015, Chapter 258

66 **76-10-1112**, as enacted by Laws of Utah 2020, Chapter 291

67 **77-37-3**, as last amended by Laws of Utah 2022, Chapter 430

68 **78B-9-104**, as last amended by Laws of Utah 2022, Chapter 120

69 ENACTS:

70 **77-11a-302**, Utah Code Annotated 1953

71 **77-11a-303**, Utah Code Annotated 1953

72 **77-11b-101**, Utah Code Annotated 1953

73 **77-11b-104**, Utah Code Annotated 1953

74 **77-11c-102**, Utah Code Annotated 1953

75 **77-11c-103**, Utah Code Annotated 1953

76 **77-11c-201**, Utah Code Annotated 1953

77 **77-11c-202**, Utah Code Annotated 1953

78 **77-11c-203**, Utah Code Annotated 1953

79 RENUMBERS AND AMENDS:

80 **77-11a-101**, (Renumbered from 24-1-102, as last amended by Laws of Utah 2022,
81 Chapter 179)

82 **77-11a-102**, (Renumbered from 24-1-103, as last amended by Laws of Utah 2021,
83 Chapter 230)

84 **77-11a-201**, (Renumbered from 24-2-102, as last amended by Laws of Utah 2021,
85 Chapter 230)

86 **77-11a-202**, (Renumbered from 24-2-102.5, as enacted by Laws of Utah 2021, Chapter
87 230)

- 88 **77-11a-203**, (Renumbered from 24-2-103, as last amended by Laws of Utah 2021,
89 Chapter 230)
- 90 **77-11a-204**, (Renumbered from 24-2-104, as last amended by Laws of Utah 2022,
91 Chapters 120, 274)
- 92 **77-11a-205**, (Renumbered from 24-2-105, as last amended by Laws of Utah 2022,
93 Chapter 179)
- 94 **77-11a-301**, (Renumbered from 24-2-107, as last amended by Laws of Utah 2022,
95 Chapters 120, 179)
- 96 **77-11a-304**, (Renumbered from 24-2-108, as last amended by Laws of Utah 2022,
97 Chapters 120, 179)
- 98 **77-11a-305**, (Renumbered from 24-3-104, as last amended by Laws of Utah 2021,
99 Chapter 230)
- 100 **77-11a-401**, (Renumbered from 24-3-101.5, as last amended by Laws of Utah 2022,
101 Chapters 120, 274)
- 102 **77-11a-402**, (Renumbered from 24-3-103, as last amended by Laws of Utah 2021,
103 Chapter 230)
- 104 **77-11a-403**, (Renumbered from 24-3-103.5, as enacted by Laws of Utah 2017, Chapter
105 334)
- 106 **77-11b-102**, (Renumbered from 24-4-102, as last amended by Laws of Utah 2022,
107 Chapters 116, 274)
- 108 **77-11b-103**, (Renumbered from 24-4-106, as enacted by Laws of Utah 2013, Chapter
109 394)
- 110 **77-11b-105**, (Renumbered from 24-4-119, as enacted by Laws of Utah 2021, Chapter
111 230)
- 112 **77-11b-201**, (Renumbered from 24-4-103, as last amended by Laws of Utah 2022,
113 Chapter 179)
- 114 **77-11b-202**, (Renumbered from 24-4-103.3, as last amended by Laws of Utah 2022,
115 Chapter 120)
- 116 **77-11b-203**, (Renumbered from 24-4-103.5, as last amended by Laws of Utah 2022,
117 Chapter 120)
- 118 **77-11b-204**, (Renumbered from 24-4-111, as last amended by Laws of Utah 2021,

- 119 Chapter 230)
- 120 [77-11b-301](#), (Renumbered from 24-4-105, as last amended by Laws of Utah 2022,
- 121 Chapter 179)
- 122 [77-11b-302](#), (Renumbered from 24-4-104, as last amended by Laws of Utah 2021,
- 123 Chapter 230)
- 124 [77-11b-303](#), (Renumbered from 24-4-113, as last amended by Laws of Utah 2021,
- 125 Chapter 230)
- 126 [77-11b-304](#), (Renumbered from 24-4-109, as last amended by Laws of Utah 2021,
- 127 Chapter 230)
- 128 [77-11b-305](#), (Renumbered from 24-4-110, as last amended by Laws of Utah 2021,
- 129 Chapter 230)
- 130 [77-11b-306](#), (Renumbered from 24-4-112, as last amended by Laws of Utah 2021,
- 131 Chapter 230)
- 132 [77-11b-401](#), (Renumbered from 24-4-115, as last amended by Laws of Utah 2022,
- 133 Chapter 179)
- 134 [77-11b-402](#), (Renumbered from 24-4-116, as last amended by Laws of Utah 2021,
- 135 Chapter 230)
- 136 [77-11b-403](#), (Renumbered from 24-4-117, as last amended by Laws of Utah 2021,
- 137 Chapter 230)
- 138 [77-11b-404](#), (Renumbered from 24-4-118, as last amended by Laws of Utah 2022,
- 139 Chapter 274)
- 140 [77-11c-101](#), (Renumbered from 53-20-101, as enacted by Laws of Utah 2022, Chapter
- 141 120)
- 142 [77-11c-301](#), (Renumbered from 24-2-106, as last amended by Laws of Utah 2022,
- 143 Chapter 120)
- 144 [77-11c-401](#), (Renumbered from 53-20-102, as enacted by Laws of Utah 2022, Chapter
- 145 120)
- 146 [77-11c-402](#), (Renumbered from 53-20-103, as enacted by Laws of Utah 2022, Chapter
- 147 120)
- 148 [77-11c-403](#), (Renumbered from 53-20-104, as enacted by Laws of Utah 2022, Chapter
- 149 120)

150 77-11d-101, (Renumbered from 77-24a-1, as repealed and reenacted by Laws of Utah
151 2013, Chapter 394)

152 77-11d-102, (Renumbered from 77-24a-2, as last amended by Laws of Utah 2013,
153 Chapter 394)

154 77-11d-103, (Renumbered from 77-24a-3, as last amended by Laws of Utah 2013,
155 Chapter 394)

156 77-11d-104, (Renumbered from 77-24a-4, as last amended by Laws of Utah 2013,
157 Chapter 394)

158 77-11d-105, (Renumbered from 77-24a-5, as last amended by Laws of Utah 2013,
159 Chapter 394)

160 REPEALS:

161 24-1-101, as enacted by Laws of Utah 2013, Chapter 394

162 24-2-101, as enacted by Laws of Utah 2013, Chapter 394

163 24-3-101, as last amended by Laws of Utah 2021, Chapter 230

164 24-4-101, as last amended by Laws of Utah 2021, Chapter 230

165

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

167 Section 1. Section 13-32a-104 is amended to read:

168 **13-32a-104. Tickets required to be maintained -- Contents -- Identification of**
169 **items -- Exceptions -- Prohibition against pawning or selling certain property.**

170 (1) A pawn or secondhand business shall keep a ticket for property a person pawns or
171 sells to the pawn or secondhand business. A pawn or secondhand business shall document on
172 the ticket the following information regarding the property:

173 (a) the date and time of the transaction;

174 (b) whether the transaction is a pawn or purchase;

175 (c) the ticket number;

176 (d) the date by which the property must be redeemed, if the property is pawned;

177 (e) the following information regarding the individual who pawns or sells the property:

178 (i) the individual's full name and date of birth as they appear on the individual's

179 identification and the individual's residence address and telephone number;

180 (ii) the unique number and type of identification presented to the pawn or secondhand

181 business;

182 (iii) the individual's signature; and

183 (iv) (A) subject to any rule made under Subsection (8), an electronic or tangible legible

184 fingerprint of the individual's right index finger, or if the right index finger cannot be

185 fingerprinted, a legible fingerprint of the individual with a notation identifying the fingerprint

186 and the reason why the right index fingerprint was unavailable; and

187 (B) notwithstanding the other provisions of this Subsection (1), an electronic legible

188 fingerprint is not required to be documented on the ticket;

189 (f) the amount loaned on, paid for, or value for trade-in of each article of property;

190 (g) the full name of the individual conducting the pawn transaction or secondhand

191 merchandise transaction on behalf of the pawn or secondhand business or the initials or a

192 unique identifying number of the individual, if the pawn or secondhand business maintains a

193 record of the initials or unique identifying number of the individual; and

194 (h) an accurate description of each article of property, with available identifying marks,

195 including:

196 (i) (A) names, brand names, numbers, serial numbers, model numbers, IMEI numbers,

197 color, manufacturers' names, and size;

198 (B) metallic composition, and any jewels, stones, or glass;

199 (C) any other marks of identification or indicia of ownership on the property;

200 (D) the weight of the property, if the payment is based on weight;

201 (E) any other unique identifying feature; and

202 (F) gold content, if indicated; or

203 (ii) if multiple articles of property of a similar nature are delivered together in one

204 transaction and the articles of property do not bear serial or model numbers and do not include

205 precious metals or gemstones, such as musical or video recordings, books, or hand tools, the

206 description of the articles is adequate if it includes the quantity of the articles and a description

207 of the type of articles delivered.

208 (2) (a) A pawn or secondhand business may not accept property if, upon inspection, it

209 is apparent that:

210 (i) a serial number or another form of indicia of ownership has been removed, altered,

211 defaced, or obliterated;

212 (ii) the property is not a numismatic item and has indicia of being new, but is not
213 accompanied by a written receipt or other satisfactory proof of ownership other than the seller's
214 own statement; or

215 (iii) except as provided in Subsection 13-32a-103.1(3), the property is a gift card,
216 transaction card, or other physical or digital card or certificate evidencing store credit.

217 (b) A pawn or secondhand business is not subject to Subsection (2)(a)(ii) if the pawn or
218 secondhand business is the original seller of the property and is accepting a return of the
219 property as provided by the pawn or secondhand business' established return policy.

220 (c) Property is presumed to have had indicia of being new at the time of a transaction if
221 the property is subsequently advertised by the pawn or secondhand business as being new.

222 (3) (a) An individual may not pawn or sell any property to a business regulated under
223 this chapter if the property is subject to being turned over to a law enforcement agency in
224 accordance with [~~Title 77, Chapter 24a, Lost or Mislaid Personal Property~~] Title 77, Chapter
225 11d, Lost or Mislaid Property.

226 (b) If an individual attempts to sell or pawn property to a business regulated under this
227 chapter and the employee or owner of the business knows or has reason to know that the
228 property is subject to [~~Title 77, Chapter 24a, Lost or Mislaid Personal Property~~] Title 77,
229 Chapter 11d, Lost or Mislaid Property, the employee or owner shall advise the individual of the
230 requirements of [~~Title 77, Chapter 24a, Lost or Mislaid Personal Property~~] Title 77, Chapter
231 11d, Lost or Mislaid Property, and may not receive the property in pawn or sale.

232 (4) A coin dealer is subject to Section 13-32a-104.5 and not subject to this section.

233 (5) An automated recycling kiosk operator is subject to Section 13-32a-104.6 and is not
234 subject to this section.

235 (6) A catalytic converter purchaser is subject to Section 13-32a-104.7 and is not subject
236 to this section.

237 (7) A violation of this section is a class B misdemeanor and is also subject to civil
238 penalties under Section 13-32a-110.

239 (8) The division shall establish standards and criteria for fingerprint legibility by rule
240 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

241 (9) (a) As used in this Subsection (9), "jewelry" means:

242 (i) any jewelry purchased by the pawn or secondhand business, including scrap jewelry

243 and watches; or

244 (ii) any jewelry pawned to a pawnbroker and the contract period between the
245 pawnbroker and the pledgor has expired, including scrap jewelry and watches.

246 (b) On and after January 1, 2020, a pawn or secondhand business shall obtain:

247 (i) a color digital photograph clearly and accurately depicting:

248 (A) each item of jewelry; and

249 (B) if an item of jewelry has one or more engravings, an additional color digital
250 photograph specifically depicting any engraving; and

251 (ii) a color digital photograph of an item that bears an identifying mark, including:

252 (A) a serial number, engraving, owner label, or similar identifying mark; and

253 (B) an additional photograph that clearly depicts the identifying mark described in
254 Subsection (9)(b)(ii)(A).

255 Section 2. Section **13-32a-109** is amended to read:

256 **13-32a-109. Holding period for property -- Return of property -- Penalty.**

257 (1) (a) A pawnbroker may sell property pawned to the pawnbroker if:

258 (i) 15 calendar days have passed after the day on which the pawnbroker submits the
259 information and any required photograph to the central database;

260 (ii) the contract period between the pawnbroker and the pledgor expires; and

261 (iii) the pawnbroker has complied with Sections [13-32a-104](#) and [13-32a-106](#).

262 (b) If property, including scrap jewelry, is purchased by a pawn or secondhand business
263 or catalytic converter purchaser, the pawn or secondhand business or catalytic converter
264 purchaser may sell the property if the pawn or secondhand business or catalytic converter
265 purchaser has held the property for 15 calendar days after the day on which the pawn or
266 secondhand business or catalytic converter purchaser submits the information to the central
267 database, and complied with Sections [13-32a-104](#), [13-32a-104.6](#), [13-32a-104.7](#), and
268 [13-32a-106](#), except that the pawn or secondhand business is not required to hold precious
269 metals or numismatic items under this Subsection (1)(b).

270 (c) (i) This Subsection (1) does not preclude a law enforcement agency from requiring
271 a pawn or secondhand business or catalytic converter purchaser to hold property if necessary in
272 the course of an investigation.

273 (ii) If the property is pawned, the law enforcement agency may require the property be

274 held beyond the terms of the contract between the pledgor and the pawnbroker.

275 (iii) If the property is sold to the pawn or secondhand business or catalytic converter
276 purchaser, the law enforcement agency may require the property be held if the pawn or
277 secondhand business or catalytic converter purchaser has not sold the article.

278 (d) If the law enforcement agency requesting a hold on property under this Subsection
279 (1) is not the local law enforcement agency, the requesting law enforcement agency shall notify
280 the local law enforcement agency of the request and also the pawn or secondhand business or
281 catalytic converter purchaser.

282 (2) If a law enforcement agency requires the pawn or secondhand business or catalytic
283 converter purchaser to hold property as part of an investigation, the law enforcement agency
284 shall provide to the pawn or secondhand business or catalytic converter purchaser a hold form
285 issued by the law enforcement agency, that:

286 (a) states the active case number;

287 (b) confirms the date of the hold request and the property to be held; and

288 (c) facilitates the ability of the pawn or secondhand business or catalytic converter
289 purchaser to track the property when the prosecution takes over the case.

290 (3) If property is not seized by a law enforcement agency that has placed a hold on the
291 property, the property shall remain in the custody of the pawn or secondhand business or
292 catalytic converter purchaser until further disposition by the law enforcement agency, and in
293 accordance with this chapter.

294 (4) (a) The initial hold by a law enforcement agency is for a period of 90 days.

295 (b) If the property is not seized by the law enforcement agency, the property shall
296 remain in the custody of the pawn or secondhand business or catalytic converter purchaser and
297 is subject to the hold unless exigent circumstances require the property to be seized by the law
298 enforcement agency.

299 (5) (a) A law enforcement agency may extend any hold for up to an additional 90 days
300 if circumstances require the extension.

301 (b) If there is an extension of a hold under Subsection (5)(a), the requesting law
302 enforcement agency shall notify the pawn or secondhand business or catalytic converter
303 purchaser that is subject to the hold before the expiration of the initial 90 days.

304 (c) A law enforcement agency may not hold an item for more than the 180 days

305 allowed under Subsections (5)(a) and (b) without obtaining a court order authorizing the hold.

306 (6) A hold on property under Subsection (2) takes precedence over any request to claim
307 or purchase the property subject to the hold.

308 (7) If an original victim who has complied with Section 13-32a-115 has not been
309 identified and the hold or seizure of the property is terminated, the law enforcement agency
310 requiring the hold or seizure shall within 15 business days after the day on which the
311 termination occurs:

312 (a) notify the pawn or secondhand business or catalytic converter purchaser in writing
313 that the hold or seizure has been terminated;

314 (b) return the property subject to the seizure to the pawn or secondhand business or
315 catalytic converter purchaser; or

316 (c) if the property is not returned to the pawn or secondhand business or catalytic
317 converter purchaser, advise the pawn or secondhand business or catalytic converter purchaser
318 either in writing or electronically of the specific alternative disposition of the property.

319 (8) (a) If the original victim who has complied with Section 13-32a-115 has been
320 identified and the hold or seizure of property is terminated, the law enforcement agency
321 requiring the hold or seizure shall:

322 (i) document the original victim who has positively identified the property; and

323 (ii) provide the documented information concerning the original victim to the
324 prosecuting agency to determine whether continued possession of the property is necessary for
325 purposes of prosecution[~~, as provided in Section 24-3-103~~] in accordance with Section
326 77-11a-301.

327 (b) If the prosecuting agency determines that continued possession of the property is
328 not necessary for purposes of prosecution[~~, as provided in Section 24-3-103~~], the prosecuting
329 agency shall provide a written or electronic notification to the law enforcement agency that
330 authorizes the return of the property to an original victim who has complied with Section
331 13-32a-115.

332 (c) (i) A law enforcement agency shall promptly provide notice to the pawn or
333 secondhand business or catalytic converter purchaser of the authorized return of the property
334 under this Subsection (8).

335 (ii) The notice shall identify the original victim, advise the pawn or secondhand

336 business or catalytic converter purchaser that the original victim has identified the property,
337 and direct the pawn or secondhand business or catalytic converter purchaser to release the
338 property to the original victim at no cost to the original victim.

339 (iii) If the property was seized, the notice shall advise that the property will be returned
340 to the original victim within 15 days after the day on which the pawn or secondhand business
341 or catalytic converter purchaser receives the notice, except as provided under Subsection (8)(d).

342 (d) The pawn or secondhand business or catalytic converter purchaser shall release
343 property under Subsection (8)(c) unless within 15 days after the day on which the notice is
344 received the pawn or secondhand business or catalytic converter purchaser complies with
345 Section [13-32a-116.5](#).

346 (9) (a) If the law enforcement agency does not notify the pawn or secondhand business
347 or catalytic converter purchaser that a hold on the property has expired, the pawn or
348 secondhand business or catalytic converter purchaser shall send a letter by registered or
349 certified mail to the law enforcement agency that ordered the hold and inform the agency that
350 the holding period has expired.

351 (b) The law enforcement agency shall respond within 30 days by:

352 (i) confirming that the hold period has expired and that the pawn or secondhand
353 business or catalytic converter purchaser may manage the property as if acquired in the
354 ordinary course of business; or

355 (ii) providing written notice to the pawn or secondhand business or catalytic converter
356 purchaser that a court order has continued the period of time for which the item shall be held.

357 (10) The written notice under Subsection (9)(b)(ii) is considered provided when:

358 (a) personally delivered to the pawn or secondhand business or catalytic converter
359 purchaser with a signed receipt of delivery;

360 (b) delivered to the pawn or secondhand business or catalytic converter purchaser by
361 registered or certified mail; or

362 (c) delivered by any other means with the mutual assent of the law enforcement agency
363 and the pawn or secondhand business or catalytic converter purchaser.

364 (11) If the law enforcement agency does not respond within 30 days under Subsection
365 (9), the pawn or secondhand business or catalytic converter purchaser may manage the property
366 as if acquired in the ordinary course of business.

367 (12) A violation of this section is a class B misdemeanor and is also subject to civil
368 penalties under Section [13-32a-110](#).

369 Section 3. Section **13-32a-116.5** is amended to read:

370 **13-32a-116.5. Contested disposition of property - Procedure.**

371 (1) If a pawn or secondhand business or catalytic converter purchaser receives notice
372 from a law enforcement agency under Section [13-32a-109](#) that property that is the subject of a
373 hold or seizure shall be returned to an identified original victim, the pawn or secondhand
374 business or catalytic converter purchaser may contest the determination and seek a specific
375 alternative disposition if within 15 business days after the day on which the pawn or
376 secondhand business or catalytic converter purchaser receives the notice:

377 (a) the pawn or secondhand business or catalytic converter purchaser gives notice to
378 the identified original victim, by certified mail, that the pawn or secondhand business or
379 catalytic converter purchaser contests the determination to return the property to the original
380 victim; and

381 (b) the pawn or secondhand business or catalytic converter purchaser files a petition in
382 a court having jurisdiction over the matter to determine rightful ownership of the property as
383 provided in Section [~~24-3-104~~] [77-11a-305](#).

384 (2) A pawn or secondhand business or catalytic converter purchaser is guilty of a class
385 B misdemeanor if the pawn or secondhand business or catalytic converter purchaser:

386 (a) holds or sells property in violation of a notification from a law enforcement agency
387 that the property is to be returned to an original victim; and

388 (b) does not comply with the requirements of this section within the time periods
389 specified.

390 Section 4. Section **17-18a-405** is amended to read:

391 **17-18a-405. Civil responsibilities of public prosecutors.**

392 A public prosecutor may act as legal counsel to the state, county, government agency,
393 or government entity regarding the following matters of civil law:

394 (1) bail bond forfeiture actions;

395 (2) actions for the forfeiture of property or contraband, as provided in [~~Title 24,~~
396 ~~Forfeiture and Disposition of Property Act~~] Title 77, Chapter 11b, Forfeiture of Seized
397 Property;

398 (3) civil actions incidental to or appropriate to supplement a public prosecutor's duties,
399 including an injunction, a habeas corpus, a declaratory action, or an extraordinary writ action,
400 in which the interests of the state may be affected; and

401 (4) any other civil duties related to criminal prosecution that are otherwise provided by
402 statute.

403 Section 5. Section **23-20-1** is amended to read:

404 **23-20-1. Enforcement authority of conservation officers -- Seizure and disposition**
405 **of property.**

406 ~~[(1) Conservation officers of the division shall enforce the provisions of this title with~~
407 ~~the same authority and following the same procedures as other law enforcement officers.]~~

408 ~~[(2)(a) Conservation officers shall seize any protected wildlife illegally taken or held.]~~

409 ~~[(b)(i) Upon determination of a defendant's guilt by the court, the protected wildlife~~
410 ~~shall be confiscated by the court and sold or otherwise disposed of by the division.]~~

411 ~~[(ii) Proceeds of the sales shall be deposited in the Wildlife Resources Account.]~~

412 ~~[(iii) Migratory wildfowl may not be sold, but shall be given to a charitable institution~~
413 ~~or used for other charitable purposes.]~~

414 ~~[(3)(a) Conservation officers may seize and impound a vehicle used for the unlawful~~
415 ~~taking or possessing of protected wildlife for any of the following purposes:]~~

416 ~~[(i) to provide for the safekeeping of the vehicle, if the owner or operator is arrested;]~~

417 ~~[(ii) to search the vehicle as provided in Subsection (2)(a) or as provided by a search~~
418 ~~warrant; or]~~

419 ~~[(iii) to inspect the vehicle for evidence that protected wildlife was unlawfully taken or~~
420 ~~possessed.]~~

421 ~~[(b) The division shall store any seized vehicle in a public or private garage, state~~
422 ~~impound lot, or other secured storage facility.]~~

423 ~~[(4) A seized vehicle shall be released]~~

424 (1) A conservation officer shall enforce the provisions of this title in accordance with
425 the same procedures and requirements for a law enforcement officer of this state.

426 (2) (a) Except as provided in Subsection (2)(b), a conservation officer may seize
427 property or contraband in accordance with Title 77, Chapter 11a, Seizure of Property and
428 Contraband, and Title 77, Chapter 11b, Forfeiture of Seized Property.

429 (b) A conservation officer shall seize protected wildlife illegally taken or held.

430 (3) (a) If a conservation officer seizes wildlife as part of an investigation or prosecution
431 of an offense and the wildlife may reasonably be used to incriminate or exculpate a person for
432 the offense, the division is not required to retain the wildlife under Title 77, Chapter 11c,
433 Retention of Evidence.

434 (b) If the division does not retain wildlife under Subsection (3)(a), the division is
435 required to preserve sufficient evidence from the wildlife for use as evidence in the prosecution
436 of a person for the offense.

437 (4) (a) If a conservation officer seizes wildlife and the wildlife or parts of the wildlife
438 are perishable, the division may donate the wildlife or parts of the wildlife to be used for
439 charitable purposes.

440 (b) If wildlife or parts of the wildlife are perishable and are not fit to be donated for
441 charitable purposes under Subsection (4)(a), the division may dispose of the wildlife or parts of
442 the wildlife in a reasonable manner.

443 (5) (a) The court may order the division to sell or dispose of protected wildlife that is
444 seized by a conservation officer if the division is permitted by law to sell or dispose of the
445 wildlife.

446 (b) The division may not sell migratory wildfowl but the division shall donate the
447 migratory wildfowl to be used for charitable purposes.

448 (c) The division shall deposit the proceeds from the sale of protected wildlife into the
449 Wildlife Resources Account.

450 (6) If the division disposes of wildlife, the court may order the division to:

451 (a) provide the owner of the disposed wildlife with wildlife that is reasonably
452 equivalent in value to the disposed wildlife within 180 days after the day on which the court
453 enters the order; or

454 (b) if the division is unable to obtain wildlife that is reasonably equivalent in value to
455 the disposed wildlife, pay the owner of the disposed wildlife for the non-trophy value of the
456 disposed wildlife in accordance with Subsection [23-20-4.5\(2\)](#) within 180 days after the day on
457 which the court enters the order.

458 (7) (a) If a conservation officer seizes a vehicle under Section [77-11a-201](#), the division
459 shall store the seized vehicle in a public or private garage, state impound lot, or any other

460 secured storage facility.

461 (b) The division shall release a seized vehicle to the owner no later than 30 days after
462 the ~~[date]~~ day on which the vehicle is seized, unless the vehicle was used for the unlawful
463 taking or possessing of wildlife by a person ~~[who is charged with committing a felony under~~
464 ~~this title]~~ charged with a felony under this title.

465 ~~[(5)]~~ (c) ~~[(a)]~~ The owner of a seized vehicle is liable for the payment of any impound
466 fee if:

467 (i) the owner used the vehicle for the unlawful taking or possessing of wildlife ~~[and is~~
468 ~~found by a court to be guilty of a violation of this title.]; and~~

469 (ii) the owner is convicted of an offense under this title.

470 ~~[(b)]~~ (d) The owner of a seized vehicle is not liable for the payment of any impound fee
471 or, if the fees have been paid, is entitled to reimbursement of the fees paid, if:

472 (i) no charges are filed or all charges are dropped ~~[which]~~ that involve the use of the
473 vehicle for the unlawful taking or possessing of wildlife;

474 (ii) the person charged with using the vehicle for the unlawful taking or possessing of
475 wildlife is found by a court to be not guilty; or

476 (iii) the owner did not consent to a use of the vehicle ~~[which]~~ that violates this chapter.
477 Section 6. Section **41-6a-606** is amended to read:

478 **41-6a-606. Speed contest or exhibition on highway -- Barricade or obstruction --**
479 **-- Spectators of a speed contest -- Seizure of non-street legal vehicles.**

480 (1) A person may not engage in any motor vehicle speed contest or exhibition of speed
481 on a highway.

482 (2) A person may not, in any manner, obstruct or place any barricade or obstruction or
483 assist or participate in placing any barricade or obstruction upon any highway for any purpose
484 prohibited under Subsection (1).

485 (3) (a) A person who violates Subsection (1) is guilty of a class A misdemeanor.

486 (b) A person who violates Subsection (2) is guilty of a class B misdemeanor.

487 (4) (a) In addition to the penalty provided under this section or any other section, a
488 person who violates Subsection (1) shall have the person's driver license suspended under
489 Subsection **53-3-220**(1)(a)(xv) for a period of:

490 (i) 60 days for a first offense; and

491 (ii) 90 days for a second offense within three years of a prior offense.

492 (b) The court shall forward the report of the conviction to the Driver License Division
493 in accordance with Section 53-3-218.

494 (5) A motor vehicle that is not street legal that is operated or used in a manner that
495 violates this section is subject to seizure in accordance with [~~Title 24, Chapter 2, Seizure of~~
496 ~~Property~~] Title 77, Chapter 11a, Part 2, Seizure of Property and Contraband.

497 Section 7. Section 53-5c-201 is amended to read:

498 **53-5c-201. Voluntary commitment of a firearm by cohabitant -- Law enforcement**
499 **to hold firearm.**

500 (1) As used in this section:

501 (a) "Cohabitant" means any individual 18 years old or older residing in the home who:

502 (i) is living as if a spouse of the owner cohabitant;

503 (ii) is related by blood or marriage to the owner cohabitant;

504 (iii) has one or more children in common with the owner cohabitant; or

505 (iv) has an interest in the safety and well-being of the owner cohabitant.

506 (b) "Owner cohabitant" means an individual:

507 (i) in relation to a cohabitant as described in Subsection (1)(a); and

508 (ii) who owns a firearm.

509 (2) (a) A cohabitant or owner cohabitant may voluntarily commit a firearm to a law
510 enforcement agency or request that a law enforcement officer receive a firearm for safekeeping
511 if the owner cohabitant or cohabitant believes that the owner cohabitant or another cohabitant
512 with access to the firearm is an immediate threat to:

513 (i) himself or herself;

514 (ii) the owner cohabitant; or

515 (iii) any other person.

516 (b) If the owner of a firearm requests return of the firearm in person at the law
517 enforcement agency's office, the law enforcement agency:

518 (i) may not hold the firearm under this section; and

519 (ii) shall return the firearm to the owner.

520 (3) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law
521 enforcement agency that receives a firearm in accordance with this chapter shall:

- 522 (a) record:
- 523 (i) the owner cohabitant's name, address, and phone number;
- 524 (ii) the firearm serial number and the make and model of each firearm committed; and
- 525 (iii) the date that the firearm was voluntarily committed;
- 526 (b) require the cohabitant to sign a document attesting that the cohabitant resides in the
- 527 home;
- 528 (c) hold the firearm in safe custody for 60 days after the day on which the firearm is
- 529 voluntarily committed; and
- 530 (d) upon proof of identification, return the firearm to:
- 531 (i) (A) the owner cohabitant after the expiration of the 60-day period; or
- 532 (B) if the owner cohabitant requests return of the firearm before the expiration of the
- 533 60-day period, at the time of the request; or
- 534 (ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.
- 535 (4) The law enforcement agency shall hold the firearm for an additional 60 days:
- 536 (a) if the initial 60-day period expires; and
- 537 (b) the cohabitant or owner cohabitant requests that the law enforcement agency hold
- 538 the firearm for an additional 60 days.
- 539 (5) A law enforcement agency may not request or require that the owner cohabitant
- 540 provide the name or other information of the cohabitant who poses an immediate threat or any
- 541 other cohabitant.
- 542 (6) Notwithstanding an ordinance or policy to the contrary adopted in accordance with
- 543 Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection
- 544 (3), Subsection 53-5c-202(3)(b)(iii), or any other record created in the application of this
- 545 chapter immediately, if practicable, but no later than five days after immediately upon the:
- 546 (a) return of a firearm in accordance with Subsection (3)(d); or
- 547 (b) disposal of the firearm in accordance with Section 53-5c-202.
- 548 (7) Unless otherwise provided, the provisions of [~~Title 77, Chapter 24a, Lost or~~
- 549 ~~Mislaid Personal Property~~] Title 77, Chapter 11d, Lost or Mislaid Property, do not apply to a
- 550 firearm received by a law enforcement agency in accordance with this chapter.
- 551 (8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held
- 552 in accordance with this chapter.

553 Section 8. Section **53-5c-202** is amended to read:

554 **53-5c-202. Illegal firearms confiscated -- Disposition of unclaimed firearm.**

555 (1) If a law enforcement agency receives a firearm in accordance with Section
556 **53-5c-201**, and the firearm is an illegal firearm, the law enforcement agency shall:

557 (a) notify the owner cohabitant attempting to voluntarily commit the firearm that the
558 firearm is an illegal firearm; and

559 (b) confiscate the firearm and dispose of the firearm in accordance with Section
560 ~~[24-3-103.5]~~ 77-11a-403.

561 (2) (a) If a law enforcement agency cannot, after a reasonable attempt, locate an owner
562 cohabitant to return a firearm in accordance with Section **53-5c-201**, the law enforcement
563 agency shall dispose of the firearm in accordance with Section ~~[24-3-103.5]~~ 77-11a-403.

564 (b) A law enforcement agency may not dispose of a firearm under Subsection (2)(a)
565 before one year after the day on which the cohabitant initially voluntarily committed the
566 firearm in accordance with Section **53-5c-201**.

567 (3) (a) If a person other than an owner cohabitant claims ownership of the firearm, the
568 person may:

569 (i) request that the law enforcement agency return the firearm in accordance with
570 Subsection (3)(b); or

571 (ii) petition the court for the firearm's return in accordance with Subsection (3)(c).

572 (b) Except as provided in Section **53-5c-201**, the law enforcement agency shall return a
573 firearm to a person other than an owner cohabitant who claims ownership of the firearm if:

574 (i) the 60-day period described in Section **53-5c-201** has expired;

575 (ii) the person provides identification; and

576 (iii) the person signs a document attesting that the person has an ownership interest in
577 the firearm.

578 (c) After sufficient notice is given to the prosecutor, the court may order that the
579 firearm be:

580 (i) returned to the rightful owner as determined by the court; or

581 (ii) disposed of in accordance with Section ~~[24-3-103.5]~~ 77-11a-403.

582 (d) A law enforcement agency shall return a firearm ordered returned to the rightful
583 owner as expeditiously as possible after a court determination.

584 Section 9. Section **58-37a-6** is amended to read:

585 **58-37a-6. Seizure -- Forfeiture -- Property rights.**

586 Drug paraphernalia is subject to seizure and forfeiture in accordance with the
587 procedures and substantive protections of [~~Title 24, Forfeiture and Disposition of Property Act~~]
588 Title 77, Chapter 11a, Seizure of Property and Contraband, and Title 77, Chapter 11b,
589 Forfeiture of Seized Property.

590 Section 10. Section **58-37c-15** is amended to read:

591 **58-37c-15. Civil forfeiture.**

592 The following shall be subject to forfeiture in accordance with the procedures and
593 substantive protections of [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77,
594 Chapter 11b, Forfeiture of Seized Property:

595 (1) all listed controlled substance precursor chemicals regulated under the provisions of
596 this chapter which have been distributed, possessed, or are intended to be distributed or
597 otherwise transferred in violation of any felony provision of this chapter; and

598 (2) all property used by any person to facilitate, aid, or otherwise cause the unlawful
599 distribution, transfer, possession, or intent to distribute, transfer, or possess a listed controlled
600 substance precursor chemical in violation of any felony provision of this chapter.

601 Section 11. Section **58-37d-7** is amended to read:

602 **58-37d-7. Seizure and forfeiture.**

603 Chemicals, equipment, supplies, vehicles, aircraft, vessels, and personal and real
604 property used in furtherance of a clandestine laboratory operation are subject to seizure and
605 forfeiture under the procedures and substantive protections of [~~Title 24, Forfeiture and~~
606 ~~Disposition of Property Act~~] Title 77, Chapter 11a, Seizure of Property and Contraband, and
607 Title 77, Chapter 11b, Forfeiture of Seized Property.

608 Section 12. Section **63A-16-1002** is amended to read:

609 **63A-16-1002. Criminal Justice Database.**

610 (1) The commission shall oversee the creation and management of a Criminal Justice
611 Database for information and data required to be reported to the commission, organized by
612 county, and accessible to all criminal justice agencies in the state.

613 (2) The division shall assist with the development and management of the database.

614 (3) The division, in collaboration with the commission, shall create:

- 615 (a) master standards and formats for information submitted to the database;
- 616 (b) a portal, bridge, website, or other method for reporting entities to provide the
617 information;
- 618 (c) a master data management index or system to assist in the retrieval of information
619 in the database;
- 620 (d) a protocol for accessing information in the database that complies with state
621 privacy regulations; and
- 622 (e) a protocol for real-time audit capability of all data accessed through the portal by
623 participating data source, data use entities, and regulators.
- 624 (4) Each criminal justice agency charged with reporting information to the commission
625 shall provide the data or information to the database in a form prescribed by the commission.
- 626 (5) The database shall be the repository for the statutorily required data described in:
- 627 (a) Section [13-53-111](#), recidivism reporting requirements;
- 628 (b) Section [17-22-32](#), county jail reporting requirements;
- 629 (c) Section [17-55-201](#), Criminal Justice Coordinating Councils reporting;
- 630 (d) Section [~~[24-4-118](#)~~] [77-11b-404](#), forfeiture reporting requirements;
- 631 (e) Section [41-6a-511](#), courts to collect and maintain data;
- 632 (f) Section [63M-7-214](#), law enforcement agency grant reporting;
- 633 (g) Section [63M-7-216](#), prosecutorial data collection;
- 634 (h) Section [64-13-21](#), supervision of sentenced offenders placed in community;
- 635 (i) Section [64-13-25](#), standards for programs;
- 636 (j) Section [64-13-45](#), department reporting requirements;
- 637 (k) Section [64-13e-104](#), housing of state probationary inmates or state parole inmates;
- 638 (l) Section [77-7-8.5](#), use of tactical groups;
- 639 (m) Section [77-20-103](#), release data requirements;
- 640 (n) Section [77-22-2.5](#), court orders for criminal investigations;
- 641 (o) Section [78A-2-109.5](#), court demographics reporting; and
- 642 (p) any other statutes which require the collection of specific data and the reporting of
643 that data to the commission.
- 644 (6) The commission shall report:
- 645 (a) progress on the database, including creation, configuration, and data entered, to the

646 Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and
647 (b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal
648 Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing
649 Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing
650 Committee not later than January 16, 2023.

651 Section 13. Section **63I-1-263** is amended to read:

652 **63I-1-263. Repeal dates: Titles 63A to 63N.**

653 (1) Subsection **63A-5b-405(5)**, relating to prioritizing and allocating capital
654 improvement funding, is repealed July 1, 2024.

655 (2) Section **63A-5b-1003**, State Facility Energy Efficiency Fund, is repealed July 1,
656 2023.

657 (3) Sections **63A-9-301** and **63A-9-302**, related to the Motor Vehicle Review
658 Committee, are repealed July 1, 2023.

659 (4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

660 (a) Section **63A-18-102** is repealed;

661 (b) Section **63A-18-201** is repealed; and

662 (c) Section **63A-18-202** is repealed.

663 (5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
664 1, 2028.

665 (6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
666 2025.

667 (7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,
668 2024.

669 (8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
670 repealed July 1, 2023.

671 (9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed
672 July 1, 2023.

673 (10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is
674 repealed July 1, 2026.

675 (11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

676 (12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

677 (13) Section [63G-6a-805](#), which creates the Purchasing from Persons with Disabilities
678 Advisory Board, is repealed July 1, 2026.

679 (14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
680 2028.

681 (15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
682 2024.

683 (16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

684 (17) Subsection [~~[63J-1-602.1\(17\)](#)~~] [63J-1-602.1\(16\)](#), relating to the Nurse Home
685 Visiting Restricted Account, is repealed July 1, 2026.

686 (18) Subsection [63J-1-602.2\(6\)](#), referring to dedicated credits to the Utah Marriage
687 Commission, is repealed July 1, 2023.

688 (19) Subsection [63J-1-602.2\(7\)](#), referring to the Trip Reduction Program, is repealed
689 July 1, 2022.

690 (20) Subsection [63J-1-602.2\(26\)](#), related to the Utah Seismic Safety Commission, is
691 repealed January 1, 2025.

692 (21) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is
693 repealed July 1, 2027.

694 (22) In relation to the Utah Substance Use and Mental Health Advisory Council, on
695 January 1, 2033:

696 (a) Sections [63M-7-301](#), [63M-7-302](#), [63M-7-303](#), [63M-7-304](#), and [63M-7-306](#) are
697 repealed;

698 (b) Section [63M-7-305](#), the language that states "council" is replaced with
699 "commission";

700 (c) Subsection [63M-7-305\(1\)\(a\)](#) is repealed and replaced with:

701 "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

702 (d) Subsection [63M-7-305\(2\)](#) is repealed and replaced with:

703 "(2) The commission shall:

704 (a) provide ongoing oversight of the implementation, functions, and evaluation of the
705 Drug-Related Offenses Reform Act; and

706 (b) coordinate the implementation of Section [77-18-104](#) and related provisions in
707 Subsections [77-18-103\(2\)\(c\)](#) and (d).".

- 708 (23) The Crime Victim Reparations and Assistance Board, created in Section
709 [63M-7-504](#), is repealed July 1, 2027.
- 710 (24) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.
- 711 (25) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed
712 January 1, 2025.
- 713 (26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.
- 714 (27) Section [63N-2-512](#), related to the Hotel Impact Mitigation Fund, is repealed July
715 1, 2028.
- 716 (28) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed
717 July 1, 2027.
- 718 (29) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is
719 repealed July 1, 2025.
- 720 (30) In relation to the Rural Employment Expansion Program, on July 1, 2023:
- 721 (a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed;
722 and
- 723 (b) Subsection [63N-4-805](#)(5)(b), referring to the Rural Employment Expansion
724 Program, is repealed.
- 725 (31) In relation to the Board of Tourism Development, on July 1, 2025:
- 726 (a) Subsection [63N-2-511](#)(1)(b), which defines "tourism board," is repealed;
- 727 (b) Subsections [63N-2-511](#)(3)(a) and (5), the language that states "tourism board" is
728 repealed and replaced with "Utah Office of Tourism";
- 729 (c) Subsection [63N-7-101](#)(1), which defines "board," is repealed;
- 730 (d) Subsection [63N-7-102](#)(3)(c), which requires the Utah Office of Tourism to receive
731 approval from the Board of Tourism Development, is repealed; and
- 732 (e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.
- 733 (32) Subsection [63N-8-103](#)(3)(c), which allows the Governor's Office of Economic
734 Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed
735 on July 1, 2024.
- 736 Section 14. Section [63J-1-602.1](#) is amended to read:
- 737 **63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**
- 738 Appropriations made from the following accounts or funds are nonlapsing:

- 739 (1) The Utah Intracurricular Student Organization Support for Agricultural Education
740 and Leadership Restricted Account created in Section 4-42-102.
- 741 (2) The Native American Repatriation Restricted Account created in Section 9-9-407.
- 742 (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in
743 Section 9-18-102.
- 744 (4) The National Professional Men's Soccer Team Support of Building Communities
745 Restricted Account created in Section 9-19-102.
- 746 (5) Funds collected for directing and administering the C-PACE district created in
747 Section 11-42a-106.
- 748 (6) Money received by the Utah Inland Port Authority, as provided in Section
749 11-58-105.
- 750 (7) The "Latino Community Support Restricted Account" created in Section 13-1-16.
- 751 (8) The Clean Air Support Restricted Account created in Section 19-1-109.
- 752 (9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in
753 Section 19-2a-106.
- 754 (10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in
755 Section 19-5-126.
- 756 (11) The "Support for State-Owned Shooting Ranges Restricted Account" created in
757 Section 23-14-13.5.
- 758 [~~(12) Award money under the State Asset Forfeiture Grant Program, as provided under~~
759 ~~Section 24-4-117;~~]
- 760 [~~(13)~~] (12) Funds collected from the program fund for local health department
761 expenses incurred in responding to a local health emergency under Section 26-1-38.
- 762 [~~(14)~~] (13) The Children with Cancer Support Restricted Account created in Section
763 26-21a-304.
- 764 [~~(15)~~] (14) State funds for matching federal funds in the Children's Health Insurance
765 Program as provided in Section 26-40-108.
- 766 [~~(16)~~] (15) The Children with Heart Disease Support Restricted Account created in
767 Section 26-58-102.
- 768 [~~(17)~~] (16) The Technology Development Restricted Account created in Section
769 31A-3-104.

770 [~~(18)~~] (17) The Criminal Background Check Restricted Account created in Section
771 31A-3-105.

772 [~~(19)~~] (18) The Captive Insurance Restricted Account created in Section 31A-3-304,
773 except to the extent that Section 31A-3-304 makes the money received under that section free
774 revenue.

775 [~~(20)~~] (19) The Title Licensee Enforcement Restricted Account created in Section
776 31A-23a-415.

777 [~~(21)~~] (20) The Health Insurance Actuarial Review Restricted Account created in
778 Section 31A-30-115.

779 [~~(22)~~] (21) The Insurance Fraud Investigation Restricted Account created in Section
780 31A-31-108.

781 [~~(23)~~] (22) The Underage Drinking Prevention Media and Education Campaign
782 Restricted Account created in Section 32B-2-306.

783 [~~(24)~~] (23) The Drinking While Pregnant Prevention Media and Education Campaign
784 Restricted Account created in Section 32B-2-308.

785 [~~(25)~~] (24) The School Readiness Restricted Account created in Section 35A-15-203.

786 [~~(26)~~] (25) Money received by the Utah State Office of Rehabilitation for the sale of
787 certain products or services, as provided in Section 35A-13-202.

788 [~~(27)~~] (26) The Oil and Gas Administrative Penalties Account created in Section
789 40-6-11.

790 [~~(28)~~] (27) The Oil and Gas Conservation Account created in Section 40-6-14.5.

791 [~~(29)~~] (28) The Division of Oil, Gas, and Mining Restricted account created in Section
792 40-6-23.

793 [~~(30)~~] (29) The Electronic Payment Fee Restricted Account created by Section
794 41-1a-121 to the Motor Vehicle Division.

795 [~~(31)~~] (30) The Motor Vehicle Enforcement Division Temporary Permit Restricted
796 Account created by Section 41-3-110 to the State Tax Commission.

797 [~~(32)~~] (31) The Utah Law Enforcement Memorial Support Restricted Account created
798 in Section 53-1-120.

799 [~~(33)~~] (32) The State Disaster Recovery Restricted Account to the Division of
800 Emergency Management, as provided in Section 53-2a-603.

- 801 [~~(34)~~] (33) The Post Disaster Recovery and Mitigation Restricted Account created in
802 Section [53-2a-1302](#).
- 803 [~~(35)~~] (34) The Department of Public Safety Restricted Account to the Department of
804 Public Safety, as provided in Section [53-3-106](#).
- 805 [~~(36)~~] (35) The Utah Highway Patrol Aero Bureau Restricted Account created in
806 Section [53-8-303](#).
- 807 [~~(37)~~] (36) The DNA Specimen Restricted Account created in Section [53-10-407](#).
- 808 [~~(38)~~] (37) The Canine Body Armor Restricted Account created in Section [53-16-201](#).
- 809 [~~(39)~~] (38) The Technical Colleges Capital Projects Fund created in Section
810 [53B-2a-118](#).
- 811 [~~(40)~~] (39) The Higher Education Capital Projects Fund created in Section
812 [53B-22-202](#).
- 813 [~~(41)~~] (40) A certain portion of money collected for administrative costs under the
814 School Institutional Trust Lands Management Act, as provided under Section [53C-3-202](#).
- 815 [~~(42)~~] (41) The Public Utility Regulatory Restricted Account created in Section
816 [54-5-1.5](#), subject to Subsection [54-5-1.5\(4\)\(d\)](#).
- 817 [~~(43)~~] (42) Funds collected from a surcharge fee to provide certain licensees with
818 access to an electronic reference library, as provided in Section [58-3a-105](#).
- 819 [~~(44)~~] (43) Certain fines collected by the Division of Professional Licensing for
820 violation of unlawful or unprofessional conduct that are used for education and enforcement
821 purposes, as provided in Section [58-17b-505](#).
- 822 [~~(45)~~] (44) Funds collected from a surcharge fee to provide certain licensees with
823 access to an electronic reference library, as provided in Section [58-22-104](#).
- 824 [~~(46)~~] (45) Funds collected from a surcharge fee to provide certain licensees with
825 access to an electronic reference library, as provided in Section [58-55-106](#).
- 826 [~~(47)~~] (46) Funds collected from a surcharge fee to provide certain licensees with
827 access to an electronic reference library, as provided in Section [58-56-3.5](#).
- 828 [~~(48)~~] (47) Certain fines collected by the Division of Professional Licensing for use in
829 education and enforcement of the Security Personnel Licensing Act, as provided in Section
830 [58-63-103](#).
- 831 [~~(49)~~] (48) The Relative Value Study Restricted Account created in Section [59-9-105](#).

- 832 ~~[(50)]~~ (49) The Cigarette Tax Restricted Account created in Section [59-14-204](#).
- 833 ~~[(51)]~~ (50) Funds paid to the Division of Real Estate for the cost of a criminal
834 background check for a mortgage loan license, as provided in Section [61-2c-202](#).
- 835 ~~[(52)]~~ (51) Funds paid to the Division of Real Estate for the cost of a criminal
836 background check for principal broker, associate broker, and sales agent licenses, as provided
837 in Section [61-2f-204](#).
- 838 ~~[(53)]~~ (52) Certain funds donated to the Department of Health and Human Services, as
839 provided in Section [26B-1-202](#).
- 840 ~~[(54)]~~ (53) The National Professional Men's Basketball Team Support of Women and
841 Children Issues Restricted Account created in Section [26B-1-302](#).
- 842 ~~[(55)]~~ (54) Certain funds donated to the Division of Child and Family Services, as
843 provided in Section [80-2-404](#).
- 844 ~~[(56)]~~ (55) The Choose Life Adoption Support Restricted Account created in Section
845 [80-2-502](#).
- 846 ~~[(57)]~~ (56) Funds collected by the Office of Administrative Rules for publishing, as
847 provided in Section [63G-3-402](#).
- 848 ~~[(58)]~~ (57) The Immigration Act Restricted Account created in Section [63G-12-103](#).
- 849 ~~[(59)]~~ (58) Money received by the military installation development authority, as
850 provided in Section [63H-1-504](#).
- 851 ~~[(60)]~~ (59) The Computer Aided Dispatch Restricted Account created in Section
852 [63H-7a-303](#).
- 853 ~~[(61)]~~ (60) The Unified Statewide 911 Emergency Service Account created in Section
854 [63H-7a-304](#).
- 855 ~~[(62)]~~ (61) The Utah Statewide Radio System Restricted Account created in Section
856 [63H-7a-403](#).
- 857 ~~[(63)]~~ (62) The Utah Capital Investment Restricted Account created in Section
858 [63N-6-204](#).
- 859 ~~[(64)]~~ (63) The Motion Picture Incentive Account created in Section [63N-8-103](#).
- 860 ~~[(65)]~~ (64) Certain money payable for expenses of the Pete Suazo Utah Athletic
861 Commission, as provided under Section [63N-10-301](#).
- 862 ~~[(66)]~~ (65) Funds collected by the housing of state probationary inmates or state parole

863 inmates, as provided in Subsection [64-13e-104\(2\)](#).

864 ~~[(67)]~~ (66) Certain forestry and fire control funds utilized by the Division of Forestry,
865 Fire, and State Lands, as provided in Section [65A-8-103](#).

866 ~~[(68)]~~ (67) The Amusement Ride Safety Restricted Account, as provided in Section
867 [72-16-204](#).

868 ~~[(69)]~~ (68) Certain funds received by the Office of the State Engineer for well drilling
869 fines or bonds, as provided in Section [73-3-25](#).

870 ~~[(70)]~~ (69) The Water Resources Conservation and Development Fund, as provided in
871 Section [73-23-2](#).

872 (70) Award money under the State Asset Forfeiture Grant Program, as provided under
873 Section [77-11b-403](#).

874 (71) Funds donated or paid to a juvenile court by private sources, as provided in
875 Subsection [78A-6-203\(1\)\(c\)](#).

876 (72) Fees for certificate of admission created under Section [78A-9-102](#).

877 (73) Funds collected for adoption document access as provided in Sections [78B-6-141](#),
878 [78B-6-144](#), and [78B-6-144.5](#).

879 (74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4,
880 Utah Indigent Defense Commission.

881 (75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in
882 Section [79-3-403](#).

883 (76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State
884 Park, and Green River State Park, as provided under Section [79-4-403](#).

885 (77) Funds donated as described in Section [41-1a-422](#) for the State Park Fees
886 Restricted Account created in Section [79-4-402](#) for support of the Division of State Parks' dark
887 sky initiative.

888 (78) Certain funds received by the Division of State Parks from the sale or disposal of
889 buffalo, as provided under Section [79-4-1001](#).

890 Section 15. Section [76-5-109.3](#) is amended to read:

891 **[76-5-109.3](#). Child abandonment.**

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

893 (i) "Child" means the same as that term is defined in Section [76-5-109](#).

- 894 (ii) "Enterprise" means the same as that term is defined in Section 76-10-1602.
- 895 (iii) "Serious physical injury" means the same as that term is defined in Section
- 896 76-5-109.
- 897 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 898 (2) (a) Except as provided in Subsection (4), an actor commits child abandonment if
- 899 the actor:
- 900 (i) is a parent or legal guardian of a child, and:
- 901 (A) intentionally ceases to maintain physical custody of the child;
- 902 (B) intentionally fails to make reasonable arrangements for the safety, care, and
- 903 physical custody of the child; and
- 904 (C) (I) intentionally fails to provide the child with food, shelter, or clothing;
- 905 (II) manifests an intent to permanently not resume physical custody of the child; or
- 906 (III) for a period of at least 30 days, intentionally fails to resume physical custody of
- 907 the child and fails to manifest a genuine intent to resume physical custody of the child; or
- 908 (ii) encourages or causes the parent or legal guardian of a child to violate Subsection
- 909 (2)(a)(i).
- 910 (b) Except as provided in Subsection (4), an enterprise commits child abandonment if
- 911 the enterprise encourages, commands, or causes another to violate Subsection (2)(a).
- 912 (3) (a) (i) A violation of Subsection (2) is a third degree felony.
- 913 (ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2) is a second
- 914 degree felony if, as a result of the child abandonment:
- 915 (A) the child suffers a serious physical injury; or
- 916 (B) the actor or enterprise receives, directly or indirectly, any benefit.
- 917 (b) (i) In addition to the penalty described in Subsection (3)(a)(ii), the court may order
- 918 the actor or enterprise described in Subsection (3)(a)(ii)(B) to pay the costs of investigating and
- 919 prosecuting the offense and the costs of securing any forfeiture provided for under Subsection
- 920 (3)(b)(ii).
- 921 (ii) Any tangible or pecuniary benefit received under Subsection (3)(a)(ii)(B) is subject
- 922 to criminal or civil forfeiture pursuant to [~~Title 24, Forfeiture and Disposition of Property Act~~]
- 923 Title 77, Chapter 11b, Forfeiture of Seized Property.
- 924 (4) (a) A parent or legal guardian who provides a child with treatment by spiritual

925 means alone through prayer, in lieu of medical treatment, in accordance with the tenets and
926 practices of an established church or religious denomination of which the parent or legal
927 guardian is a member or adherent may not, for that reason alone, be considered to have
928 committed an offense under this section.

929 (b) An actor is not guilty of an offense under this section for conduct that constitutes:

930 (i) the safe relinquishment of a child pursuant to the provisions of Section [62A-4a-802](#);

931 (ii) giving legal consent to a court order for termination of parental rights:

932 (A) in a legal adoption proceeding; or

933 (B) in a case in which a petition for the termination of parental rights, or the
934 termination of a guardianship, has been filed;

935 (iii) reasonable discipline or management of a child, including withholding privileges;

936 or

937 (iv) conduct described in Section [76-2-401](#).

938 Section 16. Section **76-6-111** is amended to read:

939 **76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria --**
940 **Seizure and disposition of property.**

941 (1) As used in this section:

942 (a) "Law enforcement officer" means the same as that term is defined in Section
943 [53-13-103](#).

944 (b) "Livestock" means a domestic animal or fur bearer raised or kept for profit or as an
945 asset, including:

946 (i) cattle;

947 (ii) sheep;

948 (iii) goats;

949 (iv) swine;

950 (v) horses;

951 (vi) mules;

952 (vii) poultry;

953 (viii) domesticated elk as defined in Section [4-39-102](#); and

954 (ix) livestock guardian dogs.

955 (c) "Livestock guardian dog" means a dog that is being used to live with and guard

956 livestock, other than itself, from predators.

957 (2) Unless authorized by Section [4-25-201](#), [4-25-202](#), [4-25-401](#), [4-39-401](#), or [18-1-3](#), a
958 person is guilty of wanton destruction of livestock if that person:

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

960 (b) does so:

961 (i) intentionally or knowingly; and

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

963 (3) For purposes of this section, a livestock guardian dog is presumed to belong to an
964 owner of the livestock with which the livestock guardian dog was living at the time of an
965 alleged violation of Subsection (2).

966 (4) Wanton destruction of livestock is punishable as a:

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

968 (b) class A misdemeanor if the aggregate value of the livestock is more than \$250, but
969 does not exceed \$750;

970 (c) third degree felony if the aggregate value of the livestock is more than \$750, but
971 does not exceed \$5,000; and

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

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

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

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

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

984 (7) A material, device, or vehicle used in violation of Subsection (2) is subject to
985 forfeiture under the procedures and substantive protections established in [~~Title 24, Forfeiture
986 and Disposition of Property Act~~] Title 77, Chapter 11b, Forfeiture of Seized Property.

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

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

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

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

993 (A) a search warrant; or

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

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

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

999 (9) (a) A material, device, or vehicle seized under this section is not repleviable but is
1000 in custody of the law enforcement agency making the seizure, subject only to the orders and
1001 decrees of a court or official having jurisdiction.

1002 (b) A peace officer who seizes a material, device, or vehicle under this section may:

1003 (i) place the property under seal;

1004 (ii) remove the property to a place designated by the warrant under which it was seized;

1005 or

1006 (iii) take custody of the property and remove it to an appropriate location for
1007 disposition in accordance with law.

1008 Section 17. Section **76-6-501** is amended to read:

1009 **76-6-501. Forgery and producing false identification -- Elements of offense --**

1010 **Definitions.**

1011 (1) As used in this part:

1012 (a) "Authentication feature" means any hologram, watermark, certification, symbol,
1013 code, image, sequence of numbers or letters, or other feature that either individually or in
1014 combination with another feature is used by the issuing authority on an identification
1015 document, document-making implement, or means of identification to determine if the
1016 document is counterfeit, altered, or otherwise falsified.

1017 (b) "Document-making implement" means any implement, impression, template,

1018 computer file, computer disc, electronic device, computer hardware or software, or scanning
1019 printing, or laminating equipment that is specifically configured or primarily used for making
1020 an identification document, a false identification document, or another document-making
1021 implement.

1022 (c) "False authentication feature" means an authentication feature that:

1023 (i) is genuine in origin but that, without the authorization of the issuing authority, has
1024 been tampered with or altered for purposes of deceit;

1025 (ii) is genuine, but has been distributed, or is intended for distribution, without the
1026 authorization of the issuing authority and not in connection with a lawfully made identification
1027 document, document-making implement, or means of identification to which the authentication
1028 feature is intended to be affixed or embedded by the issuing authority; or

1029 (iii) appears to be genuine, but is not.

1030 (d) "False identification document" means a document of a type intended or commonly
1031 accepted for the purposes of identification of individuals, and that:

1032 (i) is not issued by or under the authority of a governmental entity or was issued under
1033 the authority of a governmental entity but was subsequently altered for purposes of deceit; and

1034 (ii) appears to be issued by or under the authority of a governmental entity.

1035 (e) "Governmental entity" means the United States government, a state, a political
1036 subdivision of a state, a foreign government, a political subdivision of a foreign government, an
1037 international governmental organization, or a quasi-governmental organization.

1038 (f) "Identification document" means a document made or issued by or under the
1039 authority of a governmental entity, which, when completed with information concerning a
1040 particular individual, is of a type intended or commonly accepted for the purpose of
1041 identification of individuals.

1042 (g) "Issuing authority" means:

1043 (i) any governmental entity that is authorized to issue identification documents, means
1044 of identification, or authentication features; or

1045 (ii) a business organization or financial institution or its agent that issues a financial
1046 transaction card as defined in Section [76-6-506](#).

1047 (h) "Means of identification" means any name or number that may be used, alone or in
1048 conjunction with any other information, to identify a specific individual, including:

1049 (i) name, social security number, date of birth, government issued driver license or
1050 identification number, alien registration number, government passport number, or employer or
1051 taxpayer identification number;

1052 (ii) unique biometric data, such as fingerprint, voice print, retina or iris image, or other
1053 unique physical representation; or

1054 (iii) unique electronic identification number, address, or routing code.

1055 (i) "Personal identification card" means an identification document issued by a
1056 governmental entity solely for the purpose of identification of an individual.

1057 (j) "Produce" includes altering, authenticating, or assembling.

1058 (k) "State" includes any state of the United States, the District of Columbia, the
1059 Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the
1060 United States.

1061 (l) "Traffic" means to:

1062 (i) transport, transfer, or otherwise dispose of an item to another, as consideration for
1063 anything of value; or

1064 (ii) make or obtain control of with intent to transport, transfer, or otherwise dispose of
1065 an item to another.

1066 (m) "Writing" includes printing, electronic storage or transmission, or any other
1067 method of recording valuable information including forms such as:

1068 (i) checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and any
1069 other symbols of value, right, privilege, or identification;

1070 (ii) a security, revenue stamp, or any other instrument or writing issued by a
1071 government or any agency; or

1072 (iii) a check, an issue of stocks, bonds, or any other instrument or writing representing
1073 an interest in or claim against property, or a pecuniary interest in or claim against any person or
1074 enterprise.

1075 (2) A person is guilty of forgery if, with purpose to defraud anyone, or with knowledge
1076 that the person is facilitating a fraud to be perpetrated by anyone, the person:

1077 (a) alters any writing of another without his authority or utters the altered writing; or

1078 (b) makes, completes, executes, authenticates, issues, transfers, publishes, or utters any
1079 writing so that the writing or the making, completion, execution, authentication, issuance,

1080 transference, publication, or utterance:

1081 (i) purports to be the act of another, whether the person is existent or nonexistent;

1082 (ii) purports to be an act on behalf of another party with the authority of that other
1083 party; or

1084 (iii) purports to have been executed at a time or place or in a numbered sequence other
1085 than was in fact the case, or to be a copy of an original when an original did not exist.

1086 (3) It is not a defense to a charge of forgery under Subsection (2)(b)(ii) if an actor signs
1087 his own name to the writing if the actor does not have authority to make, complete, execute,
1088 authenticate, issue, transfer, publish, or utter the writing on behalf of the party for whom the
1089 actor purports to act.

1090 (4) A person is guilty of producing or transferring any false identification document
1091 who:

1092 (a) knowingly and without lawful authority produces, attempts, or conspires to produce
1093 an identification document, authentication feature, or a false identification document that is or
1094 appears to be issued by or under the authority of an issuing authority;

1095 (b) transfers, or possesses with intent to transfer, an identification document,
1096 authentication feature, or a false identification document knowing that the document or feature
1097 was stolen or produced without lawful authority;

1098 (c) produces, transfers, or possesses a document-making implement or authentication
1099 feature with the intent that the document-making implement or the authentication feature be
1100 used in the production of a false identification document or another document-making
1101 implement or authentication feature; or

1102 (d) traffics in false or actual authentication features for use in false identification
1103 documents, document-making implements, or means of identification.

1104 (5) A person who violates:

1105 (a) Subsection (2) is guilty of a third degree felony; and

1106 (b) Subsection (4) is guilty of a second degree felony.

1107 (6) This part may not be construed to impose criminal or civil liability on any law
1108 enforcement officer acting within the scope of a criminal investigation.

1109 (7) The forfeiture of property under this part, including any seizure and disposition of
1110 the property and any related judicial or administrative proceeding, shall be conducted in

1111 accordance with [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77, Chapter 11b,
1112 Forfeiture of Seized Property.

1113 (8) The court shall order, in addition to the penalty prescribed for any person convicted
1114 of a violation of this section, the forfeiture and destruction or other disposition of all illicit
1115 authentication features, identification documents, false transaction cards, document-making
1116 implements, or means of identification.

1117 Section 18. Section **76-6-1303** is amended to read:

1118 **76-6-1303. Possession, sale, or use of automated sales suppression device unlawful**
1119 **-- Penalties.**

1120 (1) It is a third degree felony to willfully or knowingly sell, purchase, install, transfer,
1121 use, or possess in this state any automated sales suppression device or phantomware with the
1122 intent to defraud, except that any second or subsequent violation of this Subsection (1) is a
1123 second degree felony.

1124 (2) Notwithstanding Section [76-3-301](#), any person convicted of violating Subsection
1125 (1) may be fined not more than twice the amount of the applicable taxes that would otherwise
1126 be due, but for the use of the automated sales suppression device or phantomware.

1127 (3) Any person convicted of a violation of Subsection (1):

1128 (a) is liable for all applicable taxes, penalties under Section [59-1-401](#), and interest
1129 under Section [59-1-402](#) that would otherwise be due, but for the use of the automated sales
1130 suppression device or phantomware to evade the payment of taxes; and

1131 (b) shall disgorge all profits associated with the sale or use of an automated sales
1132 suppression device or phantomware.

1133 (4) An automated sales suppression device and any device containing an automated
1134 sales suppression device is contraband and subject to forfeiture under [~~Title 24, Forfeiture and~~
1135 ~~Disposition of Property Act~~] Title 77, Chapter 11b, Forfeiture of Seized Property.

1136 Section 19. Section **76-10-503** is amended to read:

1137 **76-10-503. Restrictions on possession, purchase, transfer, and ownership of**
1138 **dangerous weapons by certain persons -- Exceptions.**

1139 (1) For purposes of this section:

1140 (a) A Category I restricted person is a person who:

1141 (i) has been convicted of any violent felony as defined in Section [76-3-203.5](#);

- 1142 (ii) is on probation or parole for any felony;
- 1143 (iii) is on parole from secure care, as defined in Section 80-1-102;
- 1144 (iv) within the last 10 years has been adjudicated under Section 80-6-701 for an offense
- 1145 which if committed by an adult would have been a violent felony as defined in Section
- 1146 76-3-203.5;
- 1147 (v) is an alien who is illegally or unlawfully in the United States; or
- 1148 (vi) is on probation for a conviction of possessing:
- 1149 (A) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;
- 1150 (B) a controlled substance analog; or
- 1151 (C) a substance listed in Section 58-37-4.2.
- 1152 (b) A Category II restricted person is a person who:
- 1153 (i) has been convicted of any felony;
- 1154 (ii) within the last seven years has been adjudicated delinquent for an offense which if
- 1155 committed by an adult would have been a felony;
- 1156 (iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;
- 1157 (iv) is in possession of a dangerous weapon and is knowingly and intentionally in
- 1158 unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;
- 1159 (v) has been found not guilty by reason of insanity for a felony offense;
- 1160 (vi) has been found mentally incompetent to stand trial for a felony offense;
- 1161 (vii) has been adjudicated as mentally defective as provided in the Brady Handgun
- 1162 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed
- 1163 to a mental institution;
- 1164 (viii) has been dishonorably discharged from the armed forces;
- 1165 (ix) has renounced the individual's citizenship after having been a citizen of the United
- 1166 States;
- 1167 (x) is a respondent or defendant subject to a protective order or child protective order
- 1168 that is issued after a hearing for which the respondent or defendant received actual notice and at
- 1169 which the respondent or defendant has an opportunity to participate, that restrains the
- 1170 respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that
- 1171 would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate
- 1172 partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate

1173 partner, and that:

1174 (A) includes a finding that the respondent or defendant represents a credible threat to
1175 the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C.
1176 Sec. 921 or the child of the individual; or

1177 (B) explicitly prohibits the use, attempted use, or threatened use of physical force that
1178 would reasonably be expected to cause bodily harm against an intimate partner or the child of
1179 an intimate partner; or

1180 (xi) has been convicted of the commission or attempted commission of assault under
1181 Section 76-5-102 or aggravated assault under Section 76-5-103 against a current or former
1182 spouse, parent, guardian, individual with whom the restricted person shares a child in common,
1183 individual who is cohabitating or has cohabitated with the restricted person as a spouse, parent,
1184 or guardian, or against an individual similarly situated to a spouse, parent, or guardian of the
1185 restricted person.

1186 (c) As used in this section, a conviction of a felony or adjudication of delinquency for
1187 an offense which would be a felony if committed by an adult does not include:

1188 (i) a conviction or an adjudication under Section 80-6-701 for an offense pertaining to
1189 antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to
1190 the regulation of business practices not involving theft or fraud; or

1191 (ii) a conviction or an adjudication under Section 80-6-701 which, according to the law
1192 of the jurisdiction in which it occurred, has been expunged, set aside, reduced to a
1193 misdemeanor by court order, pardoned or regarding which the person's civil rights have been
1194 restored unless the pardon, reduction, expungement, or restoration of civil rights expressly
1195 provides that the person may not ship, transport, possess, or receive firearms.

1196 (d) It is the burden of the defendant in a criminal case to provide evidence that a
1197 conviction or an adjudication under Section 80-6-701 is subject to an exception provided in
1198 Subsection (1)(c), after which it is the burden of the state to prove beyond a reasonable doubt
1199 that the conviction or the adjudication is not subject to that exception.

1200 (2) A Category I restricted person who intentionally or knowingly agrees, consents,
1201 offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or
1202 control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under
1203 the person's custody or control:

- 1204 (a) any firearm is guilty of a second degree felony; or
- 1205 (b) any dangerous weapon other than a firearm is guilty of a third degree felony.
- 1206 (3) A Category II restricted person who intentionally or knowingly purchases, transfers,
- 1207 possesses, uses, or has under the person's custody or control:
- 1208 (a) any firearm is guilty of a third degree felony; or
- 1209 (b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.
- 1210 (4) A person may be subject to the restrictions of both categories at the same time.
- 1211 (5) If a higher penalty than is prescribed in this section is provided in another section
- 1212 for one who purchases, transfers, possesses, uses, or has under this custody or control any
- 1213 dangerous weapon, the penalties of that section control.
- 1214 (6) It is an affirmative defense to a charge based on the definition in Subsection
- 1215 (1)(b)(iv) that the person was:
- 1216 (a) in possession of a controlled substance pursuant to a lawful order of a practitioner
- 1217 for use of a member of the person's household or for administration to an animal owned by the
- 1218 person or a member of the person's household; or
- 1219 (b) otherwise authorized by law to possess the substance.
- 1220 (7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon
- 1221 by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:
- 1222 (i) was possessed by the person or was under the person's custody or control before the
- 1223 person became a restricted person;
- 1224 (ii) was not used in or possessed during the commission of a crime or subject to
- 1225 disposition under [~~Section 24-3-103~~] Title 77, Chapter 11a, Part 4, Disposal of Seized Property
- 1226 and Contraband;
- 1227 (iii) is not being held as evidence by a court or law enforcement agency;
- 1228 (iv) was transferred to a person not legally prohibited from possessing the weapon; and
- 1229 (v) unless a different time is ordered by the court, was transferred within 10 days of the
- 1230 person becoming a restricted person.
- 1231 (b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person
- 1232 of a firearm or other dangerous weapon by a restricted person.
- 1233 (8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or
- 1234 dangerous weapon to any person, knowing that the recipient is a person described in

1235 Subsection (1)(a) or (b).

1236 (b) A person who violates Subsection (8)(a) when the recipient is:

1237 (i) a person described in Subsection (1)(a) and the transaction involves a firearm, is
1238 guilty of a second degree felony;

1239 (ii) a person described in Subsection (1)(a) and the transaction involves any dangerous
1240 weapon other than a firearm, and the transferor has knowledge that the recipient intends to use
1241 the weapon for any unlawful purpose, is guilty of a third degree felony;

1242 (iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is
1243 guilty of a third degree felony; or

1244 (iv) a person described in Subsection (1)(b) and the transaction involves any dangerous
1245 weapon other than a firearm, and the transferor has knowledge that the recipient intends to use
1246 the weapon for any unlawful purpose, is guilty of a class A misdemeanor.

1247 (9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or
1248 other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under
1249 circumstances which the person knows would be a violation of the law.

1250 (b) A person may not provide to a dealer or other person any information that the
1251 person knows to be materially false information with intent to deceive the dealer or other
1252 person about the legality of a sale, transfer or other disposition of a firearm or dangerous
1253 weapon.

1254 (c) "Materially false information" means information that portrays an illegal transaction
1255 as legal or a legal transaction as illegal.

1256 (d) A person who violates this Subsection (9) is guilty of:

1257 (i) a third degree felony if the transaction involved a firearm; or

1258 (ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a
1259 firearm.

1260 Section 20. Section **76-10-1108** is amended to read:

1261 **76-10-1108. Seizure and disposition of gambling debts or proceeds.**

1262 Any gambling bets or gambling proceeds which are reasonably identifiable as having
1263 been used or obtained in violation of this part may be seized and are subject to forfeiture
1264 proceedings in accordance with [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77,
1265 Chapter 11b, Forfeiture of Seized Property.

1266 Section 21. Section ~~76-10-1112~~ is amended to read:

1267 **76-10-1112. Local control.**

1268 (1) Nothing in this part preempts or otherwise limits the authority of a county or
1269 municipality to enact a local ordinance related to gambling or fringe gambling.

1270 (2) In accordance with [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77,
1271 Chapter 11a, Seizure of Property and Contraband, a county or municipality may seize gambling
1272 debts, gambling proceeds, or fringe gaming devices that are reasonably identifiable as being
1273 obtained or provided in violation of this part or a local ordinance.

1274 Section 22. Section ~~77-11a-101~~, which is renumbered from Section 24-1-102 is
1275 renumbered and amended to read:

1276 **CHAPTER 11a. SEIZURE OF PROPERTY AND CONTRABAND**

1277 **Part 1. General Provisions**

1278 [~~24-1-102~~]. **77-11a-101. Definitions.**

1279 As used in this [~~title~~] chapter:

1280 [(1) "Account" means the Criminal Forfeiture Restricted Account created in Section
1281 ~~24-4-116~~.]

1282 [(2) (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not
1283 guilty.]

1284 [(b) "Acquitted" does not include:]

1285 [(i) a verdict of guilty on a lesser or reduced charge;]

1286 [(ii) a plea of guilty to a lesser or reduced charge; or]

1287 [(iii) dismissal of a charge as a result of a negotiated plea agreement.]

1288 [(3)] (1) (a) "Agency" means an agency of this state or a political subdivision of this
1289 state.

1290 (b) "Agency" includes a law enforcement agency or a multijurisdictional task force.

1291 [(4)] (2) "Claimant" means:

1292 (a) an owner of property [~~as defined in this section~~];

1293 (b) an interest holder [~~as defined in this section~~]; or

1294 (c) an individual or entity who asserts a claim to any property [~~seized for forfeiture~~
1295 under this title] for which an agency seeks to forfeit.

1296 [(5) "Commission" means the State Commission on Criminal and Juvenile Justice

1297 ~~created in Section 63M-7-201.]~~

1298 ~~[(6) "Complaint" means a civil or criminal complaint seeking the forfeiture of any real~~
1299 ~~or personal property under this title.]~~

1300 ~~[(7)]~~ (3) (a) "Computer" means, except as provided in Subsection (3)(c), an electronic,
1301 magnetic, optical, electrochemical, or other high-speed data processing device that performs
1302 logical, arithmetic, and storage functions.

1303 (b) "Computer" includes any device that is used for the storage of digital or electronic
1304 files, flash memory, software, or other electronic information.

1305 (c) "Computer" does not mean a computer server of an Internet or electronic service
1306 provider, or the service provider's employee, if used to comply with the requirements under 18
1307 U.S.C. Sec. 2258A.

1308 ~~[(8) "Constructive seizure" means a seizure of property where the property is left in the~~
1309 ~~control of the owner and an agency posts the property with a notice of intent to seek forfeiture.]~~

1310 ~~[(9)]~~ (4) (a) "Contraband" means any property, item, or substance that is unlawful to
1311 produce or to possess under state or federal law.

1312 (b) "Contraband" includes:

1313 (i) a controlled substance that is possessed, transferred, distributed, or offered for
1314 distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

1315 (ii) a computer that:

1316 (A) contains or houses child pornography, or is used to create, download, transfer,
1317 upload to a storage account, or store any electronic or digital files containing child
1318 pornography; or

1319 (B) contains the personal identifying information of another individual, as defined in
1320 Subsection 76-6-1102(1), whether that individual is alive or deceased, and the personal
1321 identifying information has been used to create false or fraudulent identification documents or
1322 financial transaction cards in violation of Title 76, Chapter 6, Part 5, Fraud.

1323 (5) "Controlled substance" means the same as that term is defined in Section 58-37-2.

1324 (6) "Court" means a municipal, county, or state court.

1325 (7) "Evidence" means the same as that term is defined in Section 77-11c-101.

1326 ~~[(10)]~~ (8) "Forfeit" means to divest a claimant of an ownership interest in property
1327 seized ~~[under this title]~~ by a peace officer or agency.

1328 [(H)] (9) "Innocent owner" means a claimant who:

1329 (a) held an ownership interest in property at the time of the commission of an offense
1330 subjecting the property to [~~forfeiture under this title~~] seizure, and:

1331 (i) did not have actual knowledge of the offense subjecting the property to [~~forfeiture~~]
1332 seizure; or

1333 (ii) upon learning of the commission of the offense, took reasonable steps to prohibit
1334 the use of the property in the commission of the offense; or

1335 (b) acquired an ownership interest in the property and had no knowledge that the
1336 commission of the offense subjecting the property to [~~forfeiture under this title~~] seizure had
1337 occurred or that the property had been seized [~~for forfeiture~~], and:

1338 (i) acquired the property in a bona fide transaction for value;

1339 (ii) was an individual, including a minor child, who acquired an interest in the property
1340 through probate or inheritance; or

1341 (iii) was a spouse who acquired an interest in property through dissolution of marriage
1342 or by operation of law.

1343 [(H)] (10) (a) "Interest holder" means a secured party as defined in Section
1344 70A-9a-102, a party with a right-of-offset, a mortgagee, lien creditor, or the beneficiary of a
1345 security interest or encumbrance pertaining to an interest in property, whose interest would be
1346 perfected against a good faith purchaser for value.

1347 (b) "Interest holder" does not mean a person:

1348 (i) who holds property for the benefit of or as an agent or nominee for another person;
1349 or

1350 (ii) who is not in substantial compliance with any statute requiring an interest in
1351 property to be:

1352 (A) recorded or reflected in public records in order to perfect the interest against a good
1353 faith purchaser for value; or

1354 (B) held in control by a secured party, as defined in Section 70A-9a-102, in accordance
1355 with Section 70A-9a-314 in order to perfect the interest against a good faith purchaser for
1356 value.

1357 (11) "Law enforcement agency" means:

1358 (a) a municipal, county, state institution of higher education, or state police force or

1359 department;

1360 (b) a sheriff's office; or

1361 (c) a municipal, county, or state prosecuting authority.

1362 [~~(13) "Known address" means any address provided by a claimant to the peace officer~~
1363 ~~or agency at the time the property is seized, or the claimant's most recent address on record~~
1364 ~~with a governmental entity if no address was provided at the time of the seizure.]~~

1365 [~~(14) "Legal costs" means the costs and expenses incurred by a party in a forfeiture~~
1366 ~~action.]~~

1367 [~~(15)~~ (12) "Legislative body" means:

1368 (a) (i) the Legislature, county commission, county council, city commission, city
1369 council, or town council that has fiscal oversight and budgetary approval authority over an
1370 agency; or

1371 (ii) the agency's governing political subdivision; or

1372 (b) the lead governmental entity of a multijurisdictional task force, as designated in a
1373 memorandum of understanding executed by the agencies participating in the task force.

1374 [~~(16)~~ (13) "Multijurisdictional task force" means a law enforcement task force or other
1375 agency comprised of individuals who are employed by or acting under the authority of different
1376 governmental entities, including federal, state, county, or municipal governments, or any
1377 combination of federal, state, county, or municipal agencies.

1378 [~~(17)~~ (14) "Owner" means an individual or entity, other than an interest holder, that
1379 possesses a bona fide legal or equitable interest in [~~real or personal~~] property.

1380 (15) "Pawn or secondhand business" means the same as that term is defined in Section
1381 [13-32a-102](#).

1382 [~~(18)~~ (16) "Peace officer" means an employee:

1383 (a) of an agency;

1384 (b) whose duties consist primarily of the prevention and detection of violations of laws
1385 of this state or a political subdivision of this state; and

1386 (c) who is authorized by the agency to seize property [~~under this title~~].

1387 [~~(19)~~ (17) (a) "Proceeds" means:

1388 (i) property of any kind that is obtained directly or indirectly as a result of the
1389 commission of an offense; or

1390 (ii) any property acquired directly or indirectly from, produced through, realized
1391 through, or caused by an act or omission regarding property under Subsection [~~(19)(a)(i)~~
1392 (17)(a)(i)].

1393 (b) "Proceeds" includes any property of any kind without reduction for expenses
1394 incurred in the acquisition, maintenance, or production of that property, or any other purpose
1395 regarding property under Subsection [~~(19)(a)(i)~~] (17)(a)(i).

1396 (c) "Proceeds" is not limited to the net gain or profit realized from the offense that
1397 subjects the property to [~~forfeiture~~] seizure.

1398 [~~(20) "Program" means the State Asset Forfeiture Grant Program created in Section~~
1399 24-4-117.]

1400 [~~(21)~~] (18) (a) "Property" means all property, whether real or personal, tangible or
1401 intangible.

1402 (b) "Property" does not include contraband.

1403 [~~(22)~~] (19) "Prosecuting attorney" means:

1404 (a) the attorney general and an assistant attorney general;

1405 (b) a district attorney or deputy district attorney;

1406 (c) a county attorney or assistant county attorney; and

1407 (d) an attorney authorized to commence an action on behalf of the state [~~under this~~
1408 title].

1409 [~~(23)~~] (20) "Public interest use" means a:

1410 (a) use by a government agency as determined by the legislative body of the agency's
1411 jurisdiction; or

1412 (b) donation of the property to a nonprofit charity registered with the state.

1413 [~~(24)~~] (21) "Real property" means land, including any building, fixture, improvement,
1414 appurtenance, structure, or other development that is affixed permanently to land.

1415 (22) (a) "Seized property" means property seized by a peace officer or agency in
1416 accordance with Section 77-11a-201.

1417 (b) "Seized property" includes property that the agency seeks to forfeit under Chapter
1418 11b, Forfeiture of Seized Property.

1419 Section 23. Section **77-11a-102**, which is renumbered from Section 24-1-103 is
1420 renumbered and amended to read:

1421 ~~[24-1-103]~~. 77-11a-102. Venue.

1422 (1) In addition to ~~[the venue provided for under]~~ Title 78B, Chapter 3, Part 3, Place of
 1423 Trial -- Venue, or any other ~~[provisions of law, a proceeding under this title may be~~
 1424 ~~maintained]~~ provision of law, a person may bring an action or proceeding under this chapter in
 1425 the judicial district in which:

1426 (a) the property is seized; or

1427 (b) any part of the property is found~~;~~or.

1428 ~~[(c) a civil or criminal action could be maintained against a claimant for the offense~~
 1429 ~~subjecting the property to forfeiture under this title.]~~

1430 (2) A claimant may obtain a change of venue under Section 78B-3-309.

1431 Section 24. Section 77-11a-201, which is renumbered from Section 24-2-102 is
 1432 renumbered and amended to read:

1433 **Part 2. Seizure of Property and Contraband**

1434 ~~[24-2-102]~~. 77-11a-201. Grounds for seizing property and contraband.

1435 ~~[(†)]~~ A peace officer may seize property ~~[and]~~ or contraband:

1436 (1) upon a search warrant or administrative warrant that is issued in accordance with
 1437 the Utah Code and the Utah Rules of Criminal Procedure~~[-];~~

1438 ~~[(2) A peace officer may seize property and contraband under this chapter when:]~~

1439 ~~[(a)]~~ (2) when the seizure is incident to an arrest;

1440 ~~[(b)]~~ (3) when the property seized is the subject of a prior judgment in favor of the state
 1441 in a criminal injunction or forfeiture proceeding under ~~[this title]~~ Chapter 11b, Forfeiture of
 1442 Seized Property; or

1443 ~~[(c)]~~ (4) when the peace officer has probable cause to believe that the property or
 1444 contraband:

1445 ~~[(i)]~~ (a) is directly or indirectly dangerous to health or safety;

1446 ~~[(ii)]~~ (b) is evidence of an offense;

1447 ~~[(iii)]~~ (c) has been used or was intended to be used to commit an offense; or

1448 ~~[(iv)]~~ (d) is proceeds of an offense.

1449 Section 25. Section 77-11a-202, which is renumbered from Section 24-2-102.5 is
 1450 renumbered and amended to read:

1451 ~~[24-2-102.5]~~. 77-11a-202. Ownership interest in property or contraband

1452 seized by a peace officer.

1453 (1) To disclaim an ownership interest in property at the time of seizure, a person's
1454 disclaimer of the property must be knowing and voluntary.

1455 (2) [If a peace officer seizes contraband, a] A person may not assert an ownership
1456 interest in [the contraband under this title] contraband seized by a peace officer.

1457 Section 26. Section **77-11a-203**, which is renumbered from Section 24-2-103 is
1458 renumbered and amended to read:

1459 **[24-2-103]. 77-11a-203. Procedure after seizure of property or contraband.**

1460 ~~[(1) To disclaim an ownership interest in property at the time of seizure, an individual's~~
1461 ~~disclaimer of the property shall be knowing and voluntary.]~~

1462 (1) If a peace officer seizes property or contraband under Section [77-11a-201](#), the
1463 property and contraband:

1464 (a) is not recoverable by replevin; and

1465 (b) is considered in the custody of the agency that employed the peace officer.

1466 (2) If [property is seized] a peace officer seizes property under Section [77-11a-201](#), the
1467 peace officer or the peace officer's employing agency shall provide a receipt to the person from
1468 which the property is seized.

1469 (3) The receipt shall describe the:

1470 (a) property seized;

1471 (b) date of seizure; and

1472 (c) name and contact information of the peace officer's employing agency.

1473 (4) In addition to the receipt, the peace officer or agency shall provide the person with:

1474 (a) information on:

1475 (i) the time periods for the forfeiture of property; and

1476 (ii) what happens to property upon a conviction or acquittal of the offense subjecting
1477 the property to seizure; and

1478 (b) a web link or referral to the self-help webpage of the Utah Courts' website for
1479 resources that may assist the person in making a claim for the return of seized property.

1480 (5) The agency shall maintain a copy of the receipt provided in accordance with
1481 Subsection (2).

1482 (6) If a peace officer seizes property that, at the time of seizure, is held by a pawn or

1483 secondhand business in the course of the pawn or secondhand business's business, the
 1484 provisions of Section 13-32a-109.5 shall apply to the seizure of the property.

1485 ~~[(6)]~~ (7) If custody of the property is transferred to another agency, the transferring
 1486 agency shall provide the other agency a copy of the receipt under Subsection (2) and the name
 1487 of the person from which the property was seized.

1488 Section 27. Section ~~77-11a-204~~, which is renumbered from Section 24-2-104 is
 1489 renumbered and amended to read:

1490 ~~[24-2-104].~~ 77-11a-204. Custody of seized property and contraband.

1491 ~~[(1) If a peace officer seizes property or contraband under Section 24-2-102, the~~
 1492 ~~property and contraband:]~~

1493 ~~[(a) is not recoverable by replevin; and]~~

1494 ~~[(b) is considered in the custody of the agency that employed the peace officer.]~~

1495 ~~[(2)]~~ (1) An agency with custody of seized property or contraband shall:

1496 (a) hold the property or contraband in safe custody until the property or contraband is
 1497 released or disposed of in accordance with:

1498 (i) ~~[this title]~~ this chapter; and

1499 (ii) ~~[Title 53, Chapter 20, Forensic Biological Evidence Preservation]~~ Chapter 11c,
 1500 Retention of Evidence; and

1501 (b) maintain a record of the property or contraband, including:

1502 (i) a detailed inventory of all property or contraband seized;

1503 (ii) the name of the person from which the property or contraband was seized; and

1504 (iii) the agency's case number.

1505 ~~[(3) In accordance with Title 53, Chapter 20, Forensic Biological Evidence~~

1506 ~~Preservation, an agency may process property or contraband that is seized by a peace officer for~~
 1507 ~~evidentiary or investigative purposes, including sampling or other preservation procedure,~~
 1508 ~~before disposal or destruction.]~~

1509 ~~[(4)]~~ (2) (a) Except as provided in Subsection ~~[(4)(b)]~~ (2)(b), no later than 30 days after
 1510 the day on which a peace officer seizes property in the form of cash or other readily negotiable
 1511 instruments ~~[under Section 24-2-102]~~, an agency shall deposit the property into a separate,
 1512 restricted, interest-bearing account maintained by the agency solely for the purpose of
 1513 managing and protecting the property from commingling, loss, or devaluation.

1514 (b) A prosecuting attorney may authorize one or more written extensions of the 30-day
1515 period under Subsection ~~[(4)(a)]~~ (2)(a) if the property needs to maintain the form in which the
1516 property was seized for evidentiary purposes or other good cause.

1517 ~~[(c)]~~ (3) An agency shall:

1518 ~~[(i)]~~ (a) have written policies for the identification, tracking, management, and
1519 safekeeping of seized property and contraband; and

1520 ~~[(ii)]~~ (b) shall have a written policy that prohibits the transfer, sale, or auction of seized
1521 property and contraband to an employee of the agency.

1522 Section 28. Section **77-11a-205**, which is renumbered from Section 24-2-105 is
1523 renumbered and amended to read:

1524 ~~[24-2-105].~~ **77-11a-205. Transfer or release of seized property to another**
1525 **governmental entity -- Requirements.**

1526 (1) Except as provided in Subsections ~~[(3)(a), (b), and (c),]~~ (3)(a) through (c), upon the
1527 seizure of property by a peace officer ~~[under this title]~~, the property is subject to the exclusive
1528 jurisdiction of a district court of this state.

1529 (2) Except as provided in Subsection (3), a peace officer, agency, or prosecuting
1530 attorney may not directly or indirectly transfer or release ~~[property seized under this title]~~
1531 seized property to a federal agency or to a governmental entity not created or subject to the
1532 laws of this state.

1533 (3) An agency or prosecuting attorney may transfer or release seized property to a
1534 federal agency or to a governmental entity not created or subject to the laws of this state if:

1535 (a) (i) the property is cash or another readily negotiable instrument; and

1536 (ii) the property is evidence in, or subject to, a federal criminal indictment, a federal
1537 criminal information, or a federal criminal complaint that is filed before the property is seized;

1538 (b) (i) the property is not cash or another readily negotiable instrument; and

1539 (ii) the property is evidence in, or subject to, a federal criminal indictment, a federal
1540 criminal information, or a federal criminal complaint that is filed before the day on which the

1541 agency with custody of the property is required to return the property if no criminal or civil
1542 action is filed by the prosecuting attorney or a federal prosecutor in accordance with Section

1543 ~~[24-4-103.5]~~ 77-11b-203;

1544 (c) (i) the property was used in the commission of an offense in another state; and

1545 (ii) an agency of that state requests the transfer of the property before the day on which
1546 the agency with custody of the property is required to return the property if no criminal or civil
1547 action is filed by the prosecuting attorney or a federal prosecutor in accordance with Section
1548 ~~[24-4-103.5]~~ [77-11b-203](#); or

1549 (d) a district court authorizes, in accordance with Subsection (5), the transfer or release
1550 of the property to an agency of another state or a federal agency upon a petition by a
1551 prosecuting attorney or a federal prosecutor.

1552 (4) (a) A prosecuting attorney, or a federal prosecutor, may file a petition in the district
1553 court for the transfer or release of seized property.

1554 (b) If a prosecuting attorney, or a federal prosecutor, files a petition under Subsection
1555 (4)(a), the petition shall include:

1556 (i) a detailed description of the property seized;

1557 (ii) the location where the property was seized;

1558 (iii) the date the property was seized;

1559 (iv) the case number assigned by the agency; and

1560 (v) a declaration that:

1561 (A) states the basis for relinquishing jurisdiction to a federal agency or an agency of
1562 another state;

1563 (B) contains the names and addresses of any known claimant; and

1564 (C) is signed by the prosecuting attorney or federal prosecutor.

1565 (5) A district court may not authorize the transfer or release of seized property under
1566 Subsection (3)(d), unless the district court finds, by a preponderance of the evidence:

1567 (a) the property is evidence in, or subject to, a federal criminal indictment, a federal
1568 criminal information, or a federal criminal complaint after the property is seized;

1569 (b) the property may only be forfeited under federal law;

1570 (c) forfeiting the property under state law would unreasonably burden the prosecuting
1571 attorney or agency; or

1572 (d) the property was subject to a federal criminal investigation before the property was
1573 seized.

1574 (6) (a) Before a district court may order the transfer of seized property in accordance
1575 with this section, the court, the prosecuting attorney, or the federal prosecutor shall mail a

1576 notice to:

1577 (i) each address contained in the declaration under Subsection (4)(b)(v) to give a
1578 claimant the right to be heard with regard to the transfer; and

1579 (ii) (A) if a federal prosecutor files the petition under Subsection (4), the prosecuting
1580 attorney that is representing the agency with custody of the property; or

1581 (B) if a prosecuting attorney files the petition under Subsection (4), the federal
1582 prosecutor who will receive the property upon the transfer or release of the property.

1583 (b) If a claimant, or the party under Subsection (6)(a)(i), does not object to the petition
1584 to transfer the property within 10 days after the day on which the notice is mailed, the district
1585 court shall issue the district court's order in accordance with this section.

1586 (c) If the declaration does not include an address for a claimant, the district court shall
1587 delay the district court's order under this section for 20 days to allow time for the claimant to
1588 appear and make an objection.

1589 (d) (i) If a claimant, or a party under Subsection (6)(a)(i), contests a petition to transfer
1590 the property to a federal agency or to another governmental entity not created or subject to the
1591 laws of this state, the district court shall promptly set the matter for hearing.

1592 (ii) In making a determination under Subsection (5), the district court shall consider
1593 evidence regarding hardship, complexity, judicial and law enforcement resources, protections
1594 afforded under state and federal law, pending state or federal investigations, and any other
1595 relevant matter.

1596 (7) If an agency receives property, money, or other things of value under a federal law
1597 that authorizes the sharing or transfer of all or a portion of forfeited property, or the proceeds
1598 from the sale of forfeited property, the agency:

1599 (a) shall use the property, money, or other things of value in compliance with federal
1600 laws and regulations relating to equitable sharing;

1601 (b) may use the property, money, or other things of value for a law enforcement
1602 purpose described in Subsection [~~24-4-117(10)~~] [77-11b-403\(10\)](#); and

1603 (c) may not use the property, money, or other thing of value for a law enforcement
1604 purpose prohibited in Subsection [~~24-4-117(11)~~] [77-11b-403\(11\)](#).

1605 (8) An agency awarded an equitable share of property forfeited by the federal
1606 government may use the award money only after approval of the use by the agency's legislative

1607 body.

1608 (9) If a district court exercises exclusive jurisdiction over seized property, the district
1609 court's exclusive jurisdiction is terminated if the property is released by the agency with
1610 custody of the property to a claimant under:

1611 (a) Part 3, Release of Seized Property to Claimant; or

1612 (b) Section 77-11b-203.[:]

1613 [~~(a) a claimant under Subsection 24-2-107(1)(a), Section 24-3-104, or Section~~
1614 ~~24-4-103.5;~~]

1615 [~~(b) a rightful owner under Section 24-3-103; or]~~

1616 [~~(c) an innocent owner or an interest holder under Section 24-2-108.]~~

1617 Section 29. Section 77-11a-301, which is renumbered from Section 24-2-107 is
1618 renumbered and amended to read:

1619 **Part 3. Release of Seized Property to Claimant**

1620 ~~[24-2-107].~~ **77-11a-301. Release of seized property to claimant -- Generally.**

1621 [~~(1)(a) Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation, an]~~

1622 (1) (a) An agency with custody of seized property, or the prosecuting attorney, may
1623 release the property to a claimant if the agency or the prosecuting attorney:

1624 (i) determines that [~~retention of the property is unnecessary]~~ the agency does not need
1625 to retain or preserve the property as evidence under Chapter 11c, Retention of Evidence; or

1626 (ii) seeks to return the property to the claimant because the agency or prosecuting
1627 attorney determines that the claimant is an innocent owner or an interest holder.

1628 (b) An agency with custody of seized property, or the prosecuting attorney, may not
1629 release property under this Subsection (1) if the property is subject to retention or preservation
1630 under Chapter 11c, Retention of Evidence.

1631 [~~(b)]~~ (2) An agency with custody of the seized property, or the prosecuting attorney,
1632 shall release the property to a claimant if:

1633 [~~(i)]~~ (a) the claimant posts a surety bond or cash with the court in accordance with
1634 [~~Subsection (2)]~~ Section 77-11a-302;

1635 [~~(ii)]~~ (b) the court orders the release of property to the claimant for hardship purposes
1636 under [~~Subsection (3)]~~ Section 77-11a-303;

1637 [~~(iii)]~~ (c) a claimant establishes that the claimant is an innocent owner or an interest

1638 holder under [~~Section 24-2-108~~] Section 77-11a-304; or

1639 [~~(iv)~~] (d) the court orders property retained as evidence to be released to [a rightful
1640 owner] the claimant under [~~Section 24-3-104~~] Section 77-11a-305.

1641 (3) (a) For a computer determined to be contraband, a court may order the reasonable
1642 extraction and return of specifically described personal digital data to the owner of the
1643 computer.

1644 (b) The agency shall determine a reasonable cost to extract the data.

1645 (c) At the time of the request to extract the data, the owner of the computer shall pay
1646 the agency the cost to extract the data.

1647 (4) If a peace officer for the Division of Wildlife Resources seizes a vehicle, the
1648 Division of Wildlife Resources shall release the vehicle to a claimant in accordance with
1649 Section 23-20-1.

1650 (5) If an agency is not required, or is no longer required, to retain or preserve property
1651 as evidence under Chapter 11c, Retention of Evidence, and the agency seeks to release or
1652 dispose of the property, the agency shall exercise due diligence in attempting to notify the
1653 claimant of the property to advise the claimant that the property is to be returned.

1654 (6) (a) Before an agency may release seized property to a person claiming ownership of
1655 the property, the person shall establish that the person:

1656 (i) is the owner of the property; and

1657 (ii) may lawfully possess the property.

1658 (b) The person shall establish ownership under Subsection (6)(a) by providing to the
1659 agency:

1660 (i) identifying proof or documentation of ownership of the property; or

1661 (ii) a notarized statement if proof or documentation is not available.

1662 (c) When seized property is returned to the owner, the owner shall sign a receipt listing
1663 in detail the property that is returned.

1664 (d) The agency shall:

1665 (i) retain a copy of the receipt; and

1666 (ii) provide a copy of the receipt to the owner.

1667 ~~[(2) (a) Except as provided in Subsection (2)(b), a claimant may obtain release of~~
1668 ~~seized property by posting a surety bond or cash with the court that is in an amount equal to the~~

1669 current fair market value of the property as determined by the court or a stipulation by the
1670 parties:]

1671 [~~(b) A court may refuse to order the release under Subsection (2)(a) of:~~]
1672 [~~(i) the property if:~~]
1673 [~~(A) the bond tendered is inadequate;~~]
1674 [~~(B) the property is retained as evidence or is subject to retention under Title 53;~~
1675 Chapter 20, Forensic Biological Evidence Preservation; or]
1676 [~~(C) the property is particularly altered or designed for use in the commission of the~~
1677 offense subjecting the property to forfeiture; or]
1678 [~~(ii) contraband;~~]
1679 [~~(c) If a surety bond or cash is posted and the court later determines that the property is~~
1680 forfeited, the court shall order the forfeiture of the surety bond or cash in lieu of the property:]

1681 [~~(3) A claimant is entitled to the immediate release of seized property for which the~~
1682 agency has filed a notice of intent to forfeit under Section [24-4-103](#) if:]

1683 [~~(a) the claimant had a possessory interest in the property at the time of seizure;~~]
1684 [~~(b) continued possession by the agency pending a forfeiture proceeding will cause~~
1685 substantial hardship to the claimant, including:]

1686 [~~(i) preventing the functioning of a legitimate business;~~]
1687 [~~(ii) preventing any individual from working;~~]
1688 [~~(iii) preventing any child from attending elementary or secondary school;~~]
1689 [~~(iv) preventing or hindering an individual from receiving necessary medical care;~~]
1690 [~~(v) preventing the care of a dependent child or adult who is elderly or disabled;~~]
1691 [~~(vi) leaving an individual homeless; or~~]
1692 [~~(vii) any other condition that the court determines causes a substantial hardship;~~]
1693 [~~(c) the hardship from the continued possession of the property by the agency~~
1694 outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred
1695 if the property is returned to the claimant during the pendency of the proceeding; and]
1696 [~~(d) the determination of substantial hardship under this Subsection (3) is based upon~~
1697 the property's use before the seizure.]

1698 [~~(4) A claimant may file a motion or petition for hardship release under Subsection~~
1699 ~~(3):~~]

1700 ~~[(a) in the court in which forfeiture proceedings have commenced; or]~~
1701 ~~[(b) in a district court where there is venue if a forfeiture proceeding has not yet~~
1702 ~~commenced.]~~
1703 ~~[(5) The motion or petition for hardship release shall be served upon the agency with~~
1704 ~~custody of the property within five days after the day on which the motion or petition is filed.]~~
1705 ~~[(6) The court shall:]~~
1706 ~~[(a) schedule a hearing on the motion or petition within 14 days after the day on which~~
1707 ~~the motion or petition is filed; and]~~
1708 ~~[(b) render a decision on a motion or petition for hardship filed under this section no~~
1709 ~~later than 20 days after the day of the hearing, unless this period is extended by the agreement~~
1710 ~~of both parties or by the court for good cause shown.]~~
1711 ~~[(7) (a) If the claimant demonstrates substantial hardship under Subsection (3), the~~
1712 ~~court shall order the property immediately released to the claimant pending completion of any~~
1713 ~~forfeiture proceeding.]~~
1714 ~~[(b) The court may place conditions on release of the property as the court finds~~
1715 ~~necessary and appropriate to preserve the availability of the property or the property's~~
1716 ~~equivalent for forfeiture.]~~
1717 ~~[(8) The hardship release under this section does not apply to:]~~
1718 ~~[(a) contraband; or]~~
1719 ~~[(b) property that is:]~~
1720 ~~[(i) subject to retention under Title 53, Chapter 20, Forensic Biological Evidence~~
1721 ~~Preservation; or]~~
1722 ~~[(ii) likely to be used to commit additional offenses if returned to the claimant.]~~
1723 Section 30. Section **77-11a-302** is enacted to read:
1724 **77-11a-302. Release of seized property to claimant by surety bond or cash.**
1725 (1) Except as provided in Subsection (2), a claimant may obtain release of seized
1726 property by posting a surety bond or cash with the court that is in an amount equal to the
1727 current fair market value of the property as determined by the court or a stipulation by the
1728 parties.
1729 (2) A court may refuse to order the release of property under Subsection (1) if:
1730 (a) the bond tendered for the property is inadequate;

1731 (b) the property is subject to the retention or preservation requirements under Chapter
1732 11c, Retention of Evidence;

1733 (c) the property is particularly altered or designed for use in the commission of the
1734 offense subjecting the property to forfeiture under Section [77-11b-102](#); or

1735 (d) the property is contraband.

1736 (3) If a surety bond or cash is posted and the court later determines that the property is
1737 forfeited, the court shall order the forfeiture of the surety bond or cash in lieu of the property.

1738 Section 31. Section **77-11a-303** is enacted to read:

1739 **77-11a-303. Release of seized property subject to forfeiture to claimant for**
1740 **hardship.**

1741 (1) A claimant is entitled to the immediate release of seized property for which the
1742 agency has filed a notice of intent to forfeit under Section [77-11b-201](#) if:

1743 (a) the claimant had a possessory interest in the property at the time of seizure;

1744 (b) continued possession by the agency pending a forfeiture proceeding will cause
1745 substantial hardship to the claimant, including:

1746 (i) preventing the functioning of a legitimate business;

1747 (ii) preventing any individual from working;

1748 (iii) preventing any child from attending elementary or secondary school;

1749 (iv) preventing or hindering an individual from receiving necessary medical care;

1750 (v) preventing the care of a dependent child or adult who is elderly or disabled;

1751 (vi) leaving an individual homeless; or

1752 (vii) any other condition that the court determines causes a substantial hardship;

1753 (c) the hardship from the continued possession of the property by the agency outweighs

1754 the risk that the property will be destroyed, damaged, lost, concealed, or transferred if the

1755 property is returned to the claimant during the pendency of the proceeding; and

1756 (d) the determination of substantial hardship under this Subsection (1) is based upon
1757 the property's use before the seizure.

1758 (2) A claimant may file a motion or petition for hardship release under this section:

1759 (a) in the court in which forfeiture proceedings have commenced; or

1760 (b) in a district court where there is venue under Section [77-11a-102](#) if a forfeiture
1761 proceeding has not yet commenced.

1762 (3) The motion or petition for hardship release shall be served upon the agency with
1763 custody of the property within five days after the day on which the motion or petition is filed.

1764 (4) The court shall:

1765 (a) schedule a hearing on the motion or petition within 14 days after the day on which
1766 the motion or petition is filed; and

1767 (b) render a decision on a motion or petition for hardship filed under this section no
1768 later than 20 days after the day of the hearing, unless this period is extended by the agreement
1769 of both parties or by the court for good cause shown.

1770 (5) If the claimant demonstrates substantial hardship under Subsection (1), the court
1771 shall order the property immediately released to the claimant pending completion of any
1772 forfeiture proceeding.

1773 (6) The court may place conditions on release of the property as the court finds
1774 necessary and appropriate to preserve the availability of the property or the property's
1775 equivalent for forfeiture.

1776 (7) The hardship release under this section does not apply to:

1777 (a) contraband;

1778 (b) property that is subject to the retention or preservation requirements under Chapter
1779 11c, Retention of Evidence; or

1780 (c) property that is likely to be used to commit additional offenses if returned to the
1781 claimant.

1782 Section 32. Section **77-11a-304**, which is renumbered from Section 24-2-108 is
1783 renumbered and amended to read:

1784 ~~[24-2-108].~~ **77-11a-304. Release of seized property to innocent owner or interest**
1785 **holder.**

1786 (1) (a) [~~Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation, a~~]
1787 Except for property required to be retained or preserved under Chapter 11c, Retention of
1788 Evidence, a claimant alleged to be an innocent owner or an interest holder may recover
1789 possession of seized property by:

1790 (i) submitting a written request with the seizing agency before the later of:

1791 (A) the commencement of a civil [asset] forfeiture proceeding under Section

1792 [77-11b-302](#); or

1793 (B) 30 days after the day on which the property was seized; and
1794 (ii) providing the seizing agency with:
1795 (A) evidence that establishes proof of ownership; and
1796 (B) a brief description of the date, time, and place that the claimant mislaid or
1797 relinquished possession of the seized property, or any evidence that the claimant is an innocent
1798 owner or an interest holder.

1799 (b) If a seizing agency receives a claim under Subsection (1)(a), the seizing agency
1800 shall issue a written response to the claimant within 30 days after the day on which the seizing
1801 agency receives the claim.

1802 (c) A response under Subsection (1)(b) from the seizing agency shall indicate whether
1803 the claim has been granted, denied on the merits, or denied for failure to provide the
1804 information required by Subsection (1)(a)(ii).

1805 (d) (i) If a seizing agency denies a claim for failure to provide the information required
1806 by Subsection (1)(a)(ii), the claimant has 15 days after the day on which the claim is denied to
1807 submit additional information.

1808 (ii) If a prosecuting attorney has not filed a civil action seeking to forfeit the property
1809 under Section 77-11b-302, and a seizing agency has denied a claim for failure to provide the
1810 information required by Subsection (1)(a)(ii), the prosecuting attorney may not commence a
1811 civil action until:

1812 (A) the claimant has submitted information under Subsection (1)(d)(i); or

1813 (B) the deadline for the claimant to submit information under Subsection (1)(d)(i) has
1814 passed.

1815 (e) If a seizing agency fails to issue a written response within 30 days after the day on
1816 which the seizing agency receives the response, the seizing agency shall return the property.

1817 (2) If a claim under Subsection (1)(a) is granted, or the property is returned because the
1818 seizing agency fails to respond within 30 days, a claimant may not receive any expenses, costs,
1819 or attorney fees for the returned property.

1820 (3) A claimant may collect reasonable attorney fees and court costs if:

1821 (a) a claimant filed a claim under Subsection (1)(a);

1822 (b) the seizing agency denies the claim on the merits; and

1823 (c) a court determines that the claimant is an innocent owner or an interest holder in a

1824 civil asset forfeiture proceeding.

1825 (4) If a court grants reasonable attorney fees and court costs, the amount of the attorney
1826 fees begins to accrue from the day on which the seizing agency denied the claim.

1827 (5) If the court grants reasonable attorney fees and court costs under Subsection (3), the
1828 attorney fees and court costs are not subject to the 50% cap under Subsection ~~[24-4-110(2)]~~
1829 77-11b-305(2).

1830 (6) A communication between parties regarding a claim submitted under Subsection
1831 (3) and any evidence provided to the parties in connection with a claim is subject to the Utah
1832 Rules of Evidence, Rules 408 and 410.

1833 ~~[(7) An agency and the prosecuting attorney may not forfeit the seized property of an
1834 innocent owner or an interest holder.]~~

1835 Section 33. Section ~~77-11a-305~~, which is renumbered from Section 24-3-104 is
1836 renumbered and amended to read:

1837 ~~[24-3-104]~~. **77-11a-305. Release of seized property to claimant when seized**
1838 **property is retained as evidence.**

1839 (1) (a) A claimant may file a petition with the court for the return of the property that is
1840 being retained as evidence in accordance with Chapter 11c, Retention of Evidence.

1841 (b) The claimant may file the petition in:

1842 (i) the court in which criminal proceedings have commenced regarding the offense for
1843 which the property is being retained as evidence; or

1844 (ii) the district court with venue under Section ~~[24-1-103]~~ 77-11a-102 if there are no
1845 pending criminal proceedings.

1846 (c) A claimant shall serve a copy of the petition on the prosecuting attorney and the
1847 agency with custody of the property.

1848 (2) (a) The court shall provide an opportunity for an expedited hearing.

1849 (b) After the opportunity for an expedited hearing, the court may order that the property
1850 is:

1851 (i) returned to the ~~[rightful owner]~~ claimant if the claimant is the owner as determined
1852 by the court;

1853 (ii) if the offense subjecting the property to seizure results in a conviction, applied
1854 directly or by proceeds of the sale of the property toward restitution, fines, or fees owed by the

1855 ~~[rightful owner]~~ claimant in an amount set by the court;

1856 (iii) converted to a public interest use;

1857 (iv) held for further legal action;

1858 (v) sold at public auction and the proceeds of the sale applied to a public interest use;

1859 or

1860 (vi) destroyed.

1861 (3) Before the court can order property be returned to a claimant, the claimant shall
1862 establish, by clear and convincing evidence, that the claimant:

1863 (a) is the ~~[rightful owner]~~ owner of the property; and

1864 (b) may lawfully possess the property.

1865 (4) If the court orders the property to be returned to the claimant, the agency with
1866 custody of the property shall return the property to the claimant as expeditiously as possible.

1867 Section 34. Section ~~77-11a-401~~, which is renumbered from Section 24-3-101.5 is
1868 renumbered and amended to read:

1869 **Part 4. Disposal of Seized Property and Contraband**

1870 ~~[24-3-101.5]~~. **77-11a-401. Applicability of this part.**

1871 The provisions of this ~~[chapter]~~ part do not apply to property or contraband:

1872 ~~[(1) that is subject to the retention requirements under Title 53, Chapter 20, Forensic
1873 Biological Evidence Preservation; or]~~

1874 ~~[(2)]~~ (1) for which an agency has filed a notice of intent to seek forfeiture under
1875 ~~[Section 24-4-103.]~~ Chapter 11b, Forfeiture of Seized Property; or

1876 (2) until the property or contraband is no longer subject to the retention or preservation
1877 requirements under Chapter 11c, Retention of Evidence.

1878 Section 35. Section ~~77-11a-402~~, which is renumbered from Section 24-3-103 is
1879 renumbered and amended to read:

1880 ~~[24-3-103]~~. **77-11a-402. Disposition of seized property and contraband --
1881 Return of seized property.**

1882 (1) If a prosecuting attorney determines that seized property no longer needs to be
1883 retained ~~[for court proceedings]~~ as evidence under Chapter 11c, Retention of Evidence, the
1884 prosecuting attorney may:

1885 (a) petition the court to apply the property that is money towards restitution, fines, fees,

1886 or monetary judgments owed by the owner of the property;

1887 (b) petition the court for an order transferring ownership of any weapons to the agency
1888 with custody for the agency's use and disposal in accordance with Section ~~[24-3-103.5;]~~

1889 77-11a-403 if the owner:

1890 (i) is the individual who committed the offense for which the weapon was seized; or

1891 (ii) may not lawfully possess the weapon; or

1892 (c) notify the agency with custody of the property or contraband that:

1893 (i) the property may be returned to the ~~[rightful]~~ owner in accordance with Section

1894 77-11a-301 if the ~~[rightful]~~ owner may lawfully possess the property; or

1895 (ii) the contraband may be disposed of or destroyed.

1896 ~~[(2) The agency shall exercise due diligence in attempting to notify the rightful owner
1897 of the property to advise the owner that the property is to be returned.]~~

1898 ~~[(3) (a) For a computer determined to be contraband, a court may order the reasonable
1899 extraction and return of specifically described personal digital data to the rightful owner.]~~

1900 ~~[(b) The law enforcement agency shall determine a reasonable cost to extract the data.]~~

1901 ~~[(c) At the time of the request to extract the data, the owner of the computer shall pay
1902 the agency the cost to extract the data.]~~

1903 ~~[(4) (a) Before an agency may release seized property to a person claiming ownership
1904 of the property, the person shall establish in accordance with Subsection (4)(b) that the
1905 person:]~~

1906 ~~[(i) is the rightful owner; and]~~

1907 ~~[(ii) may lawfully possess the property.]~~

1908 ~~[(b) The person shall establish ownership under Subsection (4)(a) by providing to the
1909 agency:]~~

1910 ~~[(i) identifying proof or documentation of ownership of the property; or]~~

1911 ~~[(ii) a notarized statement if proof or documentation is not available.]~~

1912 ~~[(5) (a) When seized property is returned to the owner, the owner shall sign a receipt
1913 listing in detail the property that is returned.]~~

1914 ~~[(b) The agency shall:]~~

1915 ~~[(i) retain a copy of the receipt; and]~~

1916 ~~[(ii) provide a copy of the receipt to the owner.]~~

1917 ~~[(6)]~~ (2) (a) Except as provided in Subsection ~~[(6)(b)]~~ (2)(b), if the agency is unable to
 1918 locate the [rightful] owner of the property or the [rightful] owner is not entitled to lawfully
 1919 possess the property, the agency may:

1920 (i) apply the property to a public interest use;

1921 (ii) sell the property at public auction and apply the proceeds of the sale to a public
 1922 interest use; or

1923 (iii) destroy the property if the property is unfit for a public interest use or for sale.

1924 (b) If the property described in Subsection ~~[(6)(a)]~~ (2)(a) is a firearm, the agency shall
 1925 dispose of the firearm in accordance with Section ~~[24-3-103.5]~~ [77-11a-403](#).

1926 ~~[(7)]~~ (3) Before applying the property or the proceeds from the sale of the property to a
 1927 public interest use, the agency shall obtain from the legislative body of the agency's
 1928 jurisdiction:

1929 (a) permission to apply the property or the proceeds to public interest use; and

1930 (b) the designation and approval of the public interest use of the property or the
 1931 proceeds.

1932 ~~[(8)]~~ (4) If a peace officer seizes property that at the time of seizure is held by a pawn
 1933 or secondhand business in the course of the pawn or secondhand business's business, the
 1934 provisions of Section [13-32a-116](#) shall apply to the disposition of the property.

1935 Section 36. Section ~~77-11a-403~~, which is renumbered from Section ~~24-3-103.5~~ is
 1936 renumbered and amended to read:

1937 ~~[24-3-103.5]~~. [77-11a-403](#). **Disposition of firearms no longer needed as**
 1938 **evidence.**

1939 (1) As used in this section:

1940 (a) "Confiscated or unclaimed firearm" means a firearm that is subject to disposal by
 1941 an agency under Section ~~[24-3-103 or]~~ [53-5c-202](#) or [77-11a-402](#).

1942 (b) "Department" means the Department of Public Safety created in Section [53-1-103](#).

1943 (c) "Federally licensed firearms dealer" means a person:

1944 (i) licensed as a dealer under 18 U.S.C. Sec. 923; and

1945 (ii) engaged in the business of selling firearms.

1946 (d) "State-approved dealer" means the federally licensed firearms dealer that contracts
 1947 with the department under Subsection (4).

1948 (2) An agency shall dispose of a confiscated or unclaimed firearm by:
1949 (a) selling or destroying the confiscated or unclaimed firearm in accordance with
1950 Subsection (3);
1951 (b) giving the confiscated or unclaimed firearm to the state-approved dealer to sell or
1952 destroy in accordance with Subsection (4) and the agreement between the state-approved dealer
1953 and the department; or
1954 (c) after the agency obtains approval from the legislative body of the agency's
1955 jurisdiction, transferring the confiscated or unclaimed firearm to the Bureau of Forensic
1956 Services, created in Section [53-10-401](#), or another public forensic laboratory for testing.
1957 (3) (a) An agency that elects to dispose of a confiscated or unclaimed firearm under
1958 Subsection (2)(a) shall:
1959 (i) sell the confiscated or unclaimed firearm to a federally licensed firearms dealer and
1960 apply the proceeds from the sale to a public interest use; or
1961 (ii) destroy the firearm, if the agency determines that:
1962 (A) the condition of a confiscated or unclaimed firearm makes the firearm unfit for
1963 sale; or
1964 (B) the confiscated or unclaimed firearm is associated with a notorious crime.
1965 (b) Before an agency applies the proceeds of a sale of a confiscated or unclaimed
1966 firearm to a public interest use, the agency shall obtain from the legislative body of the agency's
1967 jurisdiction:
1968 (i) permission to apply the proceeds of the sale to a public interest use; and
1969 (ii) the designation and approval of the public interest use to which the agency applies
1970 the proceeds.
1971 (4) (a) (i) The department shall, in accordance with Title 63G, Chapter 6a, Utah
1972 Procurement Code, contract with a federally licensed firearms dealer to sell or destroy all
1973 confiscated or unclaimed firearms in the state.
1974 (ii) The term of an agreement executed in accordance with this Subsection (4) may not
1975 exceed five years.
1976 (iii) Nothing in this Subsection (4) prevents the department from contracting with the
1977 same federally licensed firearms dealer more than once.
1978 (b) An agreement executed in accordance with Subsection (4)(a) shall:

1979 (i) address the amount of money that the federally licensed firearms dealer is entitled to
1980 retain from the sale of each confiscated or unclaimed firearm as compensation for the federally
1981 licensed firearms dealer's performance under the agreement;

1982 (ii) require the federally licensed firearms dealer to donate, on behalf of the state, all
1983 proceeds from the sale of a confiscated or unclaimed firearm, except the amount described in
1984 Subsection (4)(b)(i), to an organization that:

1985 (A) is exempt from taxation under Section 501(c)(3), Internal Revenue Code;

1986 (B) complies with any applicable licensing or registration requirements in the state;

1987 (C) primarily helps the families of law enforcement officers in the state who die in the
1988 line of duty;

1989 (D) gives financial assistance to the families of law enforcement officers in the state
1990 who die in the line of duty; and

1991 (E) provides other assistance to children of active law enforcement officers, including
1992 scholarships;

1993 (iii) state that if the federally licensed firearms dealer determines that the condition of a
1994 confiscated or unclaimed firearm makes the firearm unfit for sale, the federally licensed
1995 firearms dealer shall destroy the firearm; and

1996 (iv) provide a procedure by which the department can ensure that the federally licensed
1997 firearms dealer complies with the provisions of the agreement and applicable law.

1998 Section 37. Section 77-11b-101 is enacted to read:

1999 **CHAPTER 11b. FORFEITURE OF SEIZED PROPERTY**

2000 **Part 1. General Provisions**

2001 **77-11b-101. Definitions.**

2002 As used in this chapter:

2003 (1) (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not
2004 guilty.

2005 (b) "Acquitted" does not include:

2006 (i) a verdict of guilty on a lesser or reduced charge;

2007 (ii) a plea of guilty to a lesser or reduced charge; or

2008 (iii) dismissal of a charge as a result of a negotiated plea agreement.

2009 (2) "Agency" means the same as that term is defined in Section [77-11a-101](#).

- 2010 (3) "Claimant" means the same as that term is defined in Section [77-11a-101](#).
- 2011 (4) "Commission" means the State Commission on Criminal and Juvenile Justice
- 2012 created in Section [63M-7-201](#).
- 2013 (5) "Complaint" means a civil or criminal complaint seeking the forfeiture of any
- 2014 property under this chapter.
- 2015 (6) "Forfeit" means to divest a claimant of an ownership interest in property seized
- 2016 under Section [77-11a-201](#).
- 2017 (7) "Innocent owner" means the same as that term is defined in Section [77-11a-101](#).
- 2018 (8) "Interest holder" means the same as that term is defined in Section [77-11a-101](#).
- 2019 (9) "Known address" means:
- 2020 (a) any address provided by a claimant to the peace officer or agency at the time the
- 2021 property is seized; or
- 2022 (b) the claimant's most recent address on record with a governmental entity if no
- 2023 address was provided at the time of the seizure.
- 2024 (10) "Legal costs" means the costs and expenses incurred by a party in a forfeiture
- 2025 action.
- 2026 (11) "Legislative body" means the same as that term is defined in Section [77-11a-101](#).
- 2027 (12) "Peace officer" means the same as that term is defined in Section [77-11a-101](#).
- 2028 (13) "Proceeds" means the same as that term is defined in Section [77-11a-101](#).
- 2029 (14) "Program" means the State Asset Forfeiture Grant Program created in Section
- 2030 [77-11b-403](#).
- 2031 (15) "Property" means the same as that term is defined in Section [77-11a-101](#).
- 2032 (16) "Prosecuting attorney" means the same as that term is defined in Section
- 2033 [77-11a-101](#).
- 2034 (17) "Seized property" means the same as that term is defined in Section [77-11a-101](#).
- 2035 Section 38. Section **77-11b-102**, which is renumbered from Section 24-4-102 is
- 2036 renumbered and amended to read:
- 2037 ~~[24-4-102]~~. **77-11b-102. Property subject to forfeiture.**
- 2038 (1) (a) Except as provided in Subsection (2), (3), or (4), an agency may seek to forfeit:
- 2039 ~~{a}~~ (i) seized property that was used to facilitate the commission of an offense that is
- 2040 a violation of federal or state law; ~~and~~ or

2041 ~~(b)~~ (ii) seized proceeds.

2042 (b) An agency, or the prosecuting attorney, may not forfeit the seized property of an
2043 innocent owner or an interest holder.

2044 (2) If seized property is used to facilitate an offense that is a violation of Section
2045 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, an agency may not forfeit the property if
2046 the forfeiture would constitute a prior restraint on the exercise of an affected party's rights
2047 under the First Amendment to the Constitution of the United States or Utah Constitution,
2048 Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's
2049 rights under the First Amendment to the Constitution of the United States or Utah Constitution,
2050 Article I, Section 15.

2051 (3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502,
2052 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1),
2053 Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not seek forfeiture of the
2054 motor vehicle, unless:

2055 (a) the operator of the vehicle has previously been convicted of an offense committed
2056 after May 12, 2009, that is:

2057 (i) a felony driving under the influence violation under Section 41-6a-502 or
2058 Subsection 76-5-102.1(2)(a);

2059 (ii) a felony violation under Subsection 76-5-102.1(2)(b);

2060 (iii) a violation under Section 76-5-207; or

2061 (iv) operating a motor vehicle with any amount of a controlled substance in an
2062 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
2063 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g); or

2064 (b) the operator of the vehicle was driving on a denied, suspended, revoked, or
2065 disqualified license and:

2066 (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii)
2067 was imposed because of a violation under:

2068 (A) Section 41-6a-502;

2069 (B) Section 41-6a-517;

2070 (C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

2071 (D) Section 41-6a-520;

2072 (E) operating a motor vehicle with any amount of a controlled substance in an
2073 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
2074 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

2075 (F) Section 76-5-102.1;

2076 (G) Section 76-5-207; or

2077 (H) a criminal prohibition as a result of a plea bargain after having been originally
2078 charged with violating one or more of the sections or ordinances described in Subsections
2079 (3)(b)(i)(A) through (G); or

2080 (ii) the denial, suspension, revocation, or disqualification described in [Subsections
2081 ~~(3)(b)(i)(A) through (H)~~] Subsection (3)(b)(i):

2082 (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension,
2083 revocation, or disqualification; and

2084 (B) the original denial, suspension, revocation, or disqualification was imposed
2085 because of a violation described in [~~Subsections (3)(b)(i)(A) through (H)~~] Subsection (3)(b)(i).

2086 (4) If a peace officer seizes property incident to an arrest solely for possession of a
2087 controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection 58-37-8(2)(b)(i), an
2088 agency may not seek to forfeit the property that was seized in accordance with the arrest.

2089 Section 39. Section 77-11b-103, which is renumbered from Section 24-4-106 is
2090 renumbered and amended to read:

2091 ~~[24-4-106].~~ **77-11b-103. Trial by jury.**

2092 The right to trial by jury applies to forfeiture proceedings under this chapter.

2093 Section 40. Section 77-11b-104 is enacted to read:

2094 **77-11b-104. Venue.**

2095 Notwithstanding Title 78B, Chapter 3, Part 3, Place of Trial -- Venue, or any other
2096 provision of law, a person may bring an action or proceeding under this chapter in the judicial
2097 district in which:

2098 (1) the property is seized;

2099 (2) any part of the property is found; or

2100 (3) a civil or criminal action could be maintained against a claimant for the offense
2101 subjecting the property to forfeiture under this chapter.

2102 Section 41. Section 77-11b-105, which is renumbered from Section 24-4-119 is

2103 renumbered and amended to read:

2104 ~~[24-4-119]~~. 77-11b-105. Training requirements.

2105 (1) As used in this section:

2106 (a) "Council" means the Utah Prosecution Council created in Section [67-5a-1](#).

2107 (b) "Division" means the Peace Officers Standards and Training Division created in
2108 Section [53-6-103](#).

2109 (2) To participate in the program, an agency shall have at least one employee who is
2110 certified by the division as an asset forfeiture specialist through the completion of an online
2111 asset forfeiture course by the division.

2112 (3) The division shall:

2113 (a) develop an online asset forfeiture specialist course that is available to an agency for
2114 certification purposes;

2115 (b) certify an employee of an agency who meets the course requirements to be an asset
2116 forfeiture specialist;

2117 (c) recertify, every 36 months, an employee who is designated as an asset forfeiture
2118 specialist by an agency;

2119 (d) submit annually a report to the commission no later than April 30 that contains a
2120 list of the names of the employees and agencies participating in the certification courses;

2121 (e) review and update the asset forfeiture specialist course each year to comply with
2122 state and federal law; and

2123 (f) provide asset forfeiture training to all peace officers in basic training programs.

2124 (4) To be reimbursed for costs under Subsection ~~[24-4-115(3)(b)]~~ [77-11b-401\(3\)\(b\)](#), a
2125 prosecuting agency shall have at least one employee who is certified by the council as an asset
2126 forfeiture specialist through the completion of an online asset forfeiture course.

2127 (5) The council shall:

2128 (a) develop an online asset forfeiture specialist course that is available to a prosecuting
2129 agency for certification purposes;

2130 (b) certify an employee of a prosecuting agency who meets the course requirements to
2131 be an asset forfeiture specialist;

2132 (c) submit annually a report to the commission no later than April 30 that contains a
2133 list of the names of the employees and prosecuting agencies participating in certification

2134 courses by the council; and

2135 (d) review and update the asset forfeiture specialist course each year to comply with
2136 state and federal law.

2137 Section 42. Section **77-11b-201**, which is renumbered from Section 24-4-103 is
2138 renumbered and amended to read:

2139 **Part 2. Initiating Forfeiture of Seized Property**

2140 ~~[24-4-103]~~. **77-11b-201. Initiating forfeiture proceedings -- Notice of intent to**
2141 **seek forfeiture.**

2142 (1) (a) If an agency seeks to forfeit [~~property seized under this title~~] seized property, the
2143 agency shall serve a notice of intent to seek forfeiture to any known claimant within 30 days
2144 after the day on which the property is seized.

2145 (b) The notice of intent to seek forfeiture shall describe:

2146 (i) the date of the seizure;

2147 (ii) the property seized;

2148 (iii) the claimant's rights and obligations under this chapter and Chapter 11a, Seizure of
2149 Property and Contraband, including the availability of hardship relief in appropriate
2150 circumstances; and

2151 (iv) the statutory basis for the forfeiture, including the judicial proceedings by which
2152 the property may be forfeited under this chapter.

2153 (c) The agency shall serve the notice of intent to seek forfeiture by:

2154 (i) certified mail, with a return receipt requested, to the claimant's known address; or

2155 (ii) personal service.

2156 (d) A court may void a forfeiture made without notice under Subsection (1)(a), unless
2157 the agency demonstrates:

2158 (i) good cause for the failure to give notice to the claimant; or

2159 (ii) that the claimant had actual notice of the seizure.

2160 (2) Before an agency serves a notice of intent to forfeit seized property under
2161 Subsection (1)(a), the agency shall conduct a search of public records applicable to the seized
2162 property, including county records or records of the Division of Corporations and Commercial
2163 Code, the Division of Motor Vehicles, or other state or federal licensing agencies, in order to
2164 obtain the name and address of each interest holder of the property.

2165 (3) If an agency serves a notice of intent to forfeit seized property under Subsection
2166 (1)(a), an individual or entity may not alienate, convey, sequester, or attach the property until a
2167 court:

2168 (a) issues a final order to dismiss an action under this [title] chapter; or

2169 (b) orders the forfeiture of the property.

2170 (4) (a) (i) If an agency has served each claimant with a notice of intent to seek
2171 forfeiture, the agency shall present a written request for forfeiture to the prosecuting attorney of
2172 the municipality or county where the property is seized.

2173 (ii) The agency shall provide the request under Subsection (4)(a)(i) no later than 45
2174 days after the day on which the property is seized.

2175 (b) The written request described in Subsection (4)(a) shall:

2176 (i) describe the property that the agency is seeking to forfeit; and

2177 (ii) include a copy of all reports, supporting documents, and other evidence that is
2178 necessary for the prosecuting attorney to determine the legal sufficiency for filing a forfeiture
2179 action.

2180 (c) The prosecuting attorney shall:

2181 (i) review the written request described in Subsection (4)(a)(i); and

2182 (ii) within 75 days after the day on which the property is seized, decline or accept, in
2183 writing, the agency's written request for the prosecuting attorney to initiate a proceeding to
2184 forfeit the property.

2185 Section 43. Section ~~77-11b-202~~, which is renumbered from Section 24-4-103.3 is
2186 renumbered and amended to read:

2187 ~~[24-4-103.3].~~ **77-11b-202. Sale of seized property subject to forfeiture.**

2188 (1) (a) [~~Subject to Subsection (2) and Title 53, Chapter 20, Forensic Biological~~
2189 ~~Evidence Preservation~~] Except for property that is required to be retained or preserved under
2190 Chapter 11c, Retention of Evidence, the court may order seized property[;] for which a
2191 forfeiture proceeding is pending[;] to:

2192 (i) be sold, leased, rented, or operated to satisfy a specified interest of any claimant; or

2193 (ii) preserve the interests of any party on motion of that party.

2194 (b) The court may only enter an order under Subsection (1)(a) after:

2195 (i) written notice to any person known to have an interest in the property has been

2196 given; and

2197 (ii) an opportunity for a hearing for any person known to have an interest in the
2198 property has occurred.

2199 (2) (a) A court may order a sale of property under Subsection (1) when:

2200 (i) the property is liable to perish, waste, or be significantly reduced in value; or

2201 (ii) the expenses of maintaining the property are disproportionate to the property's
2202 value.

2203 (b) A third party designated by the court shall:

2204 (i) dispose of the property by a commercially reasonable public sale; and

2205 (ii) distribute the proceeds in the following order of priority:

2206 (A) first, for the payment of reasonable expenses incurred in connection with the sale;

2207 (B) second, for the satisfaction of an interest, including an interest of an interest holder,
2208 in the order of an interest holder's priority as determined by Title 70A, Uniform Commercial
2209 Code; and

2210 (C) third, any balance of the proceeds shall be preserved in the actual or constructive
2211 custody of the court, in an interest-bearing account, subject to further proceedings under this
2212 chapter.

2213 Section 44. Section **77-11b-203**, which is renumbered from Section 24-4-103.5 is
2214 renumbered and amended to read:

2215 ~~[24-4-103.5].~~ **77-11b-203. Mandatory return of seized property subject to**
2216 **forfeiture.**

2217 (1) [~~Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation~~]
2218 Except for property that is required to be retained or preserved under Chapter 11c, Retention of
2219 Evidence, an agency shall promptly return [~~property seized under this title,~~] seized property to a
2220 claimant and the prosecuting attorney may take no further action to forfeit the property, unless
2221 within 75 days after the day on which the property is seized:

2222 (a) the prosecuting attorney:

2223 (i) files a criminal indictment or information under Subsection ~~[24-4-105(3)]~~

2224 77-11b-301(3);

2225 (ii) files a petition to transfer the property to another agency in accordance with Section
2226 ~~[24-2-105]~~ 77-11a-205; or

2227 (iii) files a civil forfeiture complaint under Section [~~24-4-104~~] [77-11b-302](#); or
 2228 (b) the prosecuting attorney or a federal prosecutor obtains a restraining order under
 2229 Subsection [~~24-4-105(4)~~] [77-11b-301\(4\)](#).

2230 (2) (a) The prosecuting attorney may file a petition to extend the deadline under
 2231 Subsection (1) by 21 days.

2232 (b) If a prosecuting attorney files a petition under Subsection (2)(a)[;] and the
 2233 prosecuting attorney provides good cause for extending the deadline, a court shall grant the
 2234 petition.

2235 (c) The prosecuting attorney may not file more than one petition under this Subsection
 2236 (2).

2237 (3) If a prosecuting attorney is unable to file a civil forfeiture complaint under
 2238 Subsection (1)(a)(iii) because a claimant has filed a claim under Section [~~24-2-108~~] [77-11a-304](#)
 2239 and the claimant has an extension to provide additional information on the claim under
 2240 Subsection [~~24-2-108(1)(d)~~] [77-11a-304\(1\)\(d\)](#), the deadline under Subsection (1) may be
 2241 extended by 15 days.

2242 Section 45. Section **77-11b-204**, which is renumbered from Section 24-4-111 is
 2243 renumbered and amended to read:

2244 [~~24-4-111~~]. **77-11b-204. Compensation for damaged property subject to**
 2245 **forfeiture.**

2246 (1) As used in this section[;]:

2247 (a) [~~"damage~~] "Damage or other injury" does not mean normal depreciation,
 2248 deterioration, or ordinary wear and tear of the property.

2249 (b) "Wildlife" means the same as that term is defined in Section [23-13-2](#).

2250 (2) If seized property is returned under this chapter, a claimant has a civil right of
 2251 action against an agency for a claim based upon the negligent destruction, loss, or damage or
 2252 other injury to seized property while in the possession or custody of the agency.

2253 (3) This section does not apply to wildlife or parts of wildlife that are seized for an
 2254 offense under Title 23, Wildlife Resources Code of Utah.

2255 Section 46. Section **77-11b-301**, which is renumbered from Section 24-4-105 is
 2256 renumbered and amended to read:

2257 **Part 3. Forfeiture Proceedings**

2258 ~~[24-4-105]~~. 77-11b-301. **Forfeiture of seized property through the criminal case.**

2259 (1) As used in this section, "defendant" means a claimant who is criminally prosecuted
2260 for the offense subjecting the property to forfeiture under Subsection ~~[24-4-102(1)]~~

2261 77-11b-102(1).

2262 (2) A prosecuting attorney may seek forfeiture of the defendant's interest in seized
2263 property through the criminal case.

2264 (3) If the prosecuting attorney seeks forfeiture of a defendant's interest in seized
2265 property through the criminal case, the prosecuting attorney shall state in the information or
2266 indictment the grounds for which the agency seeks to forfeit the property.

2267 (4) (a) (i) A court may enter a restraining order or injunction or take any other
2268 reasonable action to preserve property being forfeited under this section.

2269 (ii) Before a court's decision under Subsection (4)(a)(i), a known claimant, who can be
2270 identified after due diligence, shall be:

2271 (A) provided notice; and

2272 (B) given an opportunity for a hearing.

2273 (iii) A court shall grant an order under Subsection (4)(a)(i) if:

2274 (A) there is a substantial probability that the state will prevail on the issue of forfeiture
2275 and that failure to enter the order will result in the property being sold, transferred, destroyed,
2276 or removed from the jurisdiction of the court or otherwise made unavailable for forfeiture; and

2277 (B) the need to preserve the availability of the property or prevent the property's sale,
2278 transfer, destruction, or removal through the entry of the requested order outweighs the
2279 hardship against a claimant against which the order is to be entered.

2280 (b) A court may enter a temporary restraining order ex parte upon application of the
2281 prosecuting attorney or a federal prosecutor before or after an information or indictment has
2282 been filed, with respect to the property, if the prosecuting attorney or federal prosecutor
2283 demonstrates that:

2284 (i) there is probable cause to believe that the property with respect to which the order is
2285 sought would, in the event of a conviction, be forfeited under this section; and

2286 (ii) providing notice to a claimant would jeopardize the availability of the property for
2287 forfeiture or would jeopardize an ongoing criminal investigation.

2288 (c) The temporary order expires no more than 10 days after the day on which the order

2289 is entered unless extended for good cause shown or unless the claimant against whom the
2290 temporary order is entered consents to an extension.

2291 (d) After service of the temporary order upon a claimant known to the prosecuting
2292 attorney or federal prosecutor, the court shall hold a hearing on the order as soon as practicable
2293 and before the expiration of the temporary order.

2294 (e) The court is not bound by the Utah Rules of Evidence regarding evidence the court
2295 may receive and consider at a hearing under this section.

2296 (5) Upon conviction of a defendant for the offense subjecting the property to forfeiture,
2297 a court or jury shall find property forfeited to the state if the prosecuting attorney establishes,
2298 beyond a reasonable doubt, that:

2299 (a) the defendant:

2300 (i) committed the offense subjecting the property to forfeiture under Subsection

2301 ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#);

2302 (ii) knew of the offense subjecting the property to forfeiture under Subsection

2303 ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#) and allowed the property to be used in furtherance of the offense;

2304 or

2305 (iii) acquired the property at the time of the offense subjecting the property to forfeiture
2306 under Subsection ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#), or within a reasonable time after the offense
2307 occurred; or

2308 (b) there is no likely source for the purchase or acquisition of the property other than
2309 the commission of the offense subjecting the property to forfeiture under Subsection
2310 ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#).

2311 (6) (a) Upon conviction of a defendant for the offense subjecting the property to
2312 forfeiture and a finding by a court or jury that the property is forfeited, the court shall enter a
2313 judgment and order the property forfeited to the state upon the terms stated by the court in the
2314 court's order.

2315 (b) Following the entry of an order declaring the property forfeited under Subsection
2316 (6)(a), and upon application by the prosecuting attorney, the court may:

2317 (i) enter a restraining order or injunction;

2318 (ii) require the execution of satisfactory performance bonds;

2319 (iii) appoint a receiver, conservator, appraiser, accountant, or trustee; or

2320 (iv) take any other action to protect the state's interest in property ordered forfeited.

2321 (7) (a) (i) After property is ordered forfeited under this section, the agency shall direct
2322 the disposition of the property under Section [~~24-4-115~~] [77-11b-401](#).

2323 (ii) If property under Subsection (7)(a)(i) is not transferrable for value to the agency, or
2324 the agency is not able to exercise an ownership interest in the property, the property may not
2325 revert to the defendant.

2326 (iii) A defendant, or a person acting in concert with or on behalf of the defendant, is
2327 not eligible to purchase forfeited property at any sale held by the agency unless approved by the
2328 judge.

2329 (b) A court may stay the sale or disposition of the property pending the conclusion of
2330 any appeal of the offense subjecting the property to forfeiture if the claimant demonstrates that
2331 proceeding with the sale or disposition of the property may result in irreparable injury, harm, or
2332 loss.

2333 (8) If a defendant is acquitted of the offense subjecting the property to forfeiture under
2334 this section on the merits:

2335 (a) (i) the property for which forfeiture is sought shall be returned to the claimant; or

2336 (ii) the open market value of the property for the property for which forfeiture is sought
2337 shall be awarded to the claimant if the property has been disposed of under Section
2338 [~~24-4-103.3~~] [77-11b-202](#); and

2339 (b) any payment requirement under this chapter related to the holding of property shall
2340 be paid to the claimant.

2341 (9) Except as provided under Subsection (4) or (12), a claimant claiming an interest in
2342 property that is being forfeited under this section:

2343 (a) may not intervene in a trial or appeal of a criminal case involving the forfeiture of
2344 the property; and

2345 (b) may not commence an action at law or equity concerning the validity of the
2346 claimant's alleged interests in the property subsequent to the filing of an indictment or an
2347 information alleging that the property is being forfeited under this section.

2348 (10) A court that has jurisdiction of a case under this part may enter orders under this
2349 section without regard to the location of any property that is or has been ordered forfeited under
2350 this section.

2351 (11) To facilitate the identification or location of property forfeited under this section,
2352 and to facilitate the disposition of a petition for remission or mitigation of forfeiture after the
2353 entry of an order declaring property forfeited to the agency, the court may, upon application of
2354 the prosecuting attorney, order:

2355 (a) the testimony of any witness relating to the forfeited property be taken by
2356 deposition; and

2357 (b) any book, paper, document, record, recording, or other material is produced in
2358 accordance with the Utah Rules of Civil Procedure.

2359 (12) (a) If a court orders property forfeited under this section, the prosecuting attorney
2360 shall publish notice of the intent to dispose of the property.

2361 (b) Service by publication shall be by publication of two notices, in two successive
2362 weeks, of the forfeiture proceeding:

2363 (i) in a newspaper of general circulation in the county in which the seizure of the
2364 property occurred; and

2365 (ii) on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b).

2366 (c) The prosecuting attorney shall also send written notice to any claimants, other than
2367 the defendant, known to the prosecuting attorney to have an interest in the property, at the
2368 claimant's known address.

2369 (13) (a) A claimant, other than the defendant, may petition the court for a hearing to
2370 adjudicate the validity of the claimant's alleged interest in property forfeited under this section.

2371 (b) A claimant shall file a petition within 30 days after the earlier of the day on which a
2372 notice is published or the day on which the claimant receives written notice under Subsection
2373 (12)(a).

2374 (14) The petition under Subsection (13) shall:

2375 (a) be in writing and signed by the claimant under penalty of perjury;

2376 (b) set forth the nature and extent of the claimant's right, title, or interest in the
2377 property, the time and circumstances of the claimant's acquisition of the right, title, or interest
2378 in the property; and

2379 (c) set forth any additional facts supporting the claimant's claim and the relief sought.

2380 (15) (a) The court shall expedite the trial or hearing under this Subsection (15) to the
2381 extent practicable.

- 2382 (b) Any party may request a jury to decide any genuine issue of material fact.
- 2383 (c) The court may consolidate a trial or hearing on the petition under Subsection
- 2384 (11)(b) and any other petition filed by a claimant, other than the defendant, under this section.
- 2385 (d) For a petition under this section, the court shall permit the parties to conduct
- 2386 pretrial discovery in accordance with the Utah Rules of Civil Procedure.
- 2387 (e) (i) At the trial or hearing, the claimant may testify and present evidence and
- 2388 witnesses on the claimant's own behalf and cross-examine witnesses who appear at the hearing.
- 2389 (ii) The prosecuting attorney may present evidence and witnesses in rebuttal and in
- 2390 defense of the claim to the property and cross-examine witnesses who appear.
- 2391 (f) In addition to testimony and evidence presented at the trial or hearing, the court may
- 2392 consider the relevant portion of the record of the criminal case that resulted in the order of
- 2393 forfeiture.
- 2394 (g) A trial or hearing shall be conducted in accordance with the Utah Rules of
- 2395 Evidence.
- 2396 (16) The court shall amend the order of forfeiture in accordance with the court's
- 2397 determination, if after the trial or hearing under Subsection (15), the court or jury determines
- 2398 that the claimant has established, by a preponderance of the evidence, that:
- 2399 (a) (i) the claimant has a legal right, title, or interest in the property; and
- 2400 (ii) the claimant's right, title, or interest renders the order of forfeiture invalid in whole
- 2401 or in part because the right, title, or interest was vested in the claimant rather than the
- 2402 defendant, or was superior to any right, title, or interest of the defendant at the time of the
- 2403 commission of the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~]
- 2404 [77-11b-102\(1\)](#); or
- 2405 (b) the claimant acquired the right, title, or interest in the property in a bona fide
- 2406 transaction for value, and, at the time of acquisition, the claimant did not know that the
- 2407 property could be forfeited under this chapter.
- 2408 (17) An agency has clear title to the property and may transfer title to a purchaser or
- 2409 transferee if:
- 2410 (a) the court issued a disposition on all petitions under Subsection (13) denying any
- 2411 claimant's right, title, or interest to the property; or
- 2412 (b) a petition was not filed under the timelines provided in Subsection (13)(b).

2413 (18) If the prosecuting attorney seeks to discontinue a forfeiture proceeding under this
2414 section and transfer the action to another state or federal agency that has initiated a civil or
2415 criminal proceeding involving the same property, the prosecuting attorney shall file a petition
2416 to transfer the property in accordance with Section ~~[24-2-105]~~ 77-11a-205.

2417 Section 47. Section **77-11b-302**, which is renumbered from Section 24-4-104 is
2418 renumbered and amended to read:

2419 ~~[24-4-104]~~. **77-11b-302. Civil forfeiture of seized property.**

2420 (1) (a) A prosecuting attorney may commence a civil action to forfeit seized property
2421 by filing a complaint.

2422 (b) The complaint under Subsection (1)(a) shall describe with reasonable particularity:

2423 (i) the property that the agency is seeking to forfeit;

2424 (ii) the date and place of seizure; and

2425 (iii) the factual allegations that constitute a basis for forfeiture.

2426 (2) (a) After a complaint is filed, the prosecuting attorney shall serve a copy of the
2427 complaint and summons upon each claimant known to the prosecuting attorney within 30 days
2428 after the day on which the complaint is filed.

2429 (b) The prosecuting attorney is not required to serve a copy of the complaint or the
2430 summons upon a claimant which has disclaimed, in writing, an ownership interest in the seized
2431 property.

2432 (c) Service of the complaint and summons shall be by:

2433 (i) personal service;

2434 (ii) certified mail, with a return receipt requested, to the claimant's known address; or

2435 (iii) service by publication, if the prosecuting attorney demonstrates to the court that
2436 service cannot reasonably be made by personal service or certified mail.

2437 (d) Service by publication shall be by publication of two notices, in two successive
2438 weeks, of the forfeiture proceeding:

2439 (i) in a newspaper of general circulation in the county in which the seizure occurred;

2440 and

2441 (ii) on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b).

2442 (e) Service is effective upon the earlier of:

2443 (i) personal service;

2444 (ii) certified mail; or
2445 (iii) publication in accordance with Subsection (2)(d).
2446 (f) The court may extend the period to complete service under this section for an
2447 additional 60 days if the prosecuting attorney:
2448 (i) moves the court to extend the period to complete service; and
2449 (ii) has shown good cause for extending service.
2450 (3) (a) If a prosecuting attorney files a complaint for forfeiture as described in
2451 Subsection (1), a claimant may file an answer to the complaint.
2452 (b) If a claimant files an answer in accordance with Subsection (3)(a), the claimant
2453 shall file the answer within 30 days after the day on which the complaint is served upon the
2454 claimant.
2455 (c) If an agency is seeking to forfeit property [~~under Section 24-4-103 and the property~~]
2456 that is valued at less than \$10,000, the agency shall return the property to the claimant if:
2457 (i) (A) the prosecuting attorney has filed a forfeiture complaint, and the claimant has
2458 filed an answer, in accordance with Subsections (3)(a) and (b); and
2459 (B) the prosecuting attorney has not filed an information or indictment for the offense
2460 for which the property is seized within 60 days after the day on which the prosecuting attorney
2461 served the claimant with the complaint, or the prosecuting attorney has not timely moved a
2462 court and demonstrated reasonable cause for extending the time to file the information or
2463 indictment; or
2464 (ii) the information or indictment for the offense for which the property was seized was
2465 dismissed and the prosecuting attorney has not refiled the information or indictment within
2466 seven days after the day on which the information or indictment was dismissed.
2467 (d) A claimant is not entitled to any expenses, costs, or attorney fees for the return of
2468 property to the claimant under Subsection (3)(c).
2469 (e) (i) The time limitations in Subsection (3)(c)(i) may be extended for up to 15 days if
2470 a claimant timely seeks to recover possession of seized property in accordance with Section
2471 [~~24-2-108~~] 77-11a-304.
2472 (ii) If the time limitations are extended under Subsection (3)(c)(i), the time limitations
2473 in Subsection (3)(c)(i) shall resume immediately upon the agency's or prosecuting attorney's
2474 timely denial of a claim under Section [~~24-2-108~~] 77-11a-304 on the merits.

- 2475 (4) Except as otherwise provided in this chapter, a civil action for a forfeiture
2476 proceeding is governed by the Utah Rules of Civil Procedure.
- 2477 (5) The court shall:
- 2478 (a) take all reasonable steps to expedite a civil forfeiture proceeding; and
2479 (b) give a civil forfeiture proceeding the same priority as a criminal case.
- 2480 (6) A claimant may file an answer to a complaint for civil forfeiture without posting
2481 bond with respect to the property that the agency seeks to forfeit.
- 2482 (7) A court shall grant an agency's request to forfeit property if the prosecuting attorney
2483 establishes, by clear and convincing evidence, that:
- 2484 (a) the claimant:
- 2485 (i) committed the offense subjecting the property to forfeiture under Subsection
2486 ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#);
- 2487 (ii) knew of the offense subjecting the property to forfeiture under Subsection
2488 [24-4-102\(1\)](#) and allowed the property to be used in furtherance of the offense; or
2489 (iii) acquired the property at the time of the offense subjecting the property to forfeiture
2490 under Subsection ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#), or within a reasonable time after the offense
2491 occurred; or
- 2492 (b) there is no likely source for the purchase or acquisition of the property other than
2493 the commission of the offense subjecting the property to forfeiture under Subsection
2494 ~~[24-4-102(1)]~~ [77-11a-102\(1\)](#).
- 2495 (8) If a court finds that the property is the proceeds of an offense that subjects the
2496 proceeds to forfeiture under Subsection ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#), the prosecuting attorney
2497 does not need to prove that the property was the proceeds of a particular exchange or
2498 transaction.
- 2499 (9) If a claimant is acquitted of the offense subjecting the property to forfeiture under
2500 this section:
- 2501 (a) (i) the property for which forfeiture is sought shall be returned to the claimant; or
2502 (ii) the open market value of the property for the property for which forfeiture is sought
2503 shall be awarded to the claimant if the property has been disposed of under Section
2504 ~~[24-4-103(3)]~~ [77-11b-202](#); and
- 2505 (b) any payment requirement under this chapter related to the holding of property shall

2506 be paid to the claimant.

2507 (10) If the prosecuting attorney seeks to discontinue a forfeiture proceeding under this
2508 section and transfer the action to another state or federal agency that has initiated a civil or
2509 criminal proceeding involving the same property, the prosecuting attorney shall file a petition
2510 to transfer the property in accordance with Section ~~[24-2-105]~~ [77-11a-205](#).

2511 (11) A civil forfeiture action under this section may be converted to a criminal
2512 forfeiture action at any time after a prosecuting attorney files a criminal complaint, information,
2513 or indictment for the offense subjecting the property to forfeiture under Subsection
2514 ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#).

2515 Section 48. Section **77-11b-303**, which is renumbered from Section 24-4-113 is
2516 renumbered and amended to read:

2517 ~~[24-4-113]~~. **77-11b-303. Proportionality of forfeiture.**

2518 (1) (a) A claimant's interest in property that is used to facilitate an offense may not be
2519 forfeited under any provision of state law if the forfeiture is substantially disproportionate to
2520 the use of the property in committing or facilitating an offense that is a violation of state law
2521 and the value of the property.

2522 (b) If property is used solely in a manner that is merely incidental and not instrumental
2523 to the commission or facilitation of an offense, a forfeiture of the property is not proportional.

2524 (2) (a) In determining proportionality, the court shall consider:

2525 (i) the offense subjecting the property to forfeiture under Subsection ~~[24-4-102(1)]~~
2526 [77-11b-102\(1\)](#);

2527 (ii) what portion of the forfeiture, if any, is remedial in nature;

2528 (iii) the gravity of the conduct for which the claimant is responsible in light of the
2529 offense; and

2530 (iv) the value of the property.

2531 (b) If the court finds that the forfeiture is substantially disproportional to an offense for
2532 which the claimant is responsible, the court shall reduce or eliminate the forfeiture as the court
2533 finds appropriate.

2534 (3) A prosecuting attorney has the burden of demonstrating that a forfeiture is
2535 proportional to the offense subjecting the property to forfeiture under Subsection ~~[24-4-102(1)]~~
2536 [77-11b-102\(1\)](#).

2537 (4) In all cases, the court shall decide questions of proportionality.

2538 (5) A forfeiture of any proceeds used to facilitate the commission of an offense that is a
2539 violation of federal or state law is proportional.

2540 Section 49. Section **77-11b-304**, which is renumbered from Section 24-4-109 is
2541 renumbered and amended to read:

2542 ~~[24-4-109]~~. **77-11b-304. Postjudgment interest to prevailing party in forfeiture**
2543 **proceeding.**

2544 In a proceeding to forfeit currency or other negotiable instruments under this chapter,
2545 the court shall award postjudgment interest to a prevailing party on the currency or negotiable
2546 instruments at the interest rate established under Section [15-1-4](#).

2547 Section 50. Section **77-11b-305**, which is renumbered from Section 24-4-110 is
2548 renumbered and amended to read:

2549 ~~[24-4-110]~~. **77-11b-305. Attorney fees and costs for forfeiture proceeding.**

2550 (1) In a forfeiture proceeding under this chapter, a court shall award reasonable legal
2551 costs and attorney fees to a prevailing claimant.

2552 (2) If a court awards legal costs and attorney fees to a prevailing claimant under
2553 Subsection (1), the award may not exceed 50% of the value of the seized property.

2554 (3) A claimant who prevails only in part is entitled to recover reasonable legal costs
2555 and attorney fees only on an issue on which the party prevailed.

2556 Section 51. Section **77-11b-306**, which is renumbered from Section 24-4-112 is
2557 renumbered and amended to read:

2558 ~~[24-4-112]~~. **77-11b-306. Limitation on fees for holding seized property subject**
2559 **to forfeiture.**

2560 In any civil or criminal proceeding under this ~~chapter~~ part in which a judgment is
2561 entered in favor of a claimant, or where a forfeiture proceeding against a claimant is voluntarily
2562 dismissed by the prosecuting attorney, an agency may not charge a claimant any fee or cost for
2563 holding seized property.

2564 Section 52. Section **77-11b-401**, which is renumbered from Section 24-4-115 is
2565 renumbered and amended to read:

2566 **Part 4. Disposal and Allocation of Forfeited Property**

2567 ~~[24-4-115]~~. **77-11b-401. Disposition and allocation of forfeited property.**

2568 (1) If a court finds that property is forfeited under this chapter, the court shall order the
2569 property forfeited to the state.

2570 (2) (a) If the property is not currency, the agency shall authorize a public or otherwise
2571 commercially reasonable sale of that property if the property is not required by law to be
2572 destroyed and is not harmful to the public.

2573 (b) If the property forfeited is an alcoholic product as defined in Section [32B-1-102](#),
2574 the property shall be disposed of as follows:

2575 (i) an alcoholic product shall be sold if the alcoholic product is:

2576 (A) unadulterated, pure, and free from any crude, unrectified, or impure form of ethylic
2577 alcohol, or any other deleterious substance or liquid; and

2578 (B) otherwise in saleable condition; or

2579 (ii) an alcoholic product and the alcoholic product's package shall be destroyed if the
2580 alcoholic product is impure, adulterated, or otherwise unfit for sale.

2581 (c) If the property forfeited is a cigarette or other tobacco product as defined in Section
2582 [59-14-102](#), the property shall be destroyed, except that the lawful holder of the trademark rights
2583 in the cigarette or tobacco product brand is permitted to inspect the cigarette before the
2584 destruction of the cigarette or tobacco product.

2585 (d) The proceeds of the sale of forfeited property shall remain segregated from other
2586 property, equipment, or assets of the agency until transferred in accordance with this chapter.

2587 (3) Before transferring currency and the proceeds or revenue from the sale of the
2588 property in accordance with this chapter, the agency shall:

2589 (a) deduct the agency's direct costs, expense of reporting under Section [~~24-4-118~~]
2590 [77-11b-404](#), and expense of obtaining and maintaining the property pending a forfeiture
2591 proceeding; and

2592 (b) if the prosecuting agency that employed the prosecuting attorney has met the
2593 requirements of Subsection [~~24-4-119(3)~~] [77-11b-105\(3\)](#), pay the prosecuting attorney the legal
2594 costs associated with the litigation of the forfeiture proceeding, and up to 20% of the value of
2595 the forfeited property in attorney fees.

2596 (4) If the forfeiture arises from a violation relating to wildlife resources, the agency
2597 shall deposit any remaining currency and the proceeds or revenue from the sale of the property
2598 into the Wildlife Resources Account created in Section [23-14-13](#).

2599 (5) The agency shall transfer any remaining currency, the proceeds, or revenue from the
2600 sale of the property to the commission and deposited into the [~~account~~] Criminal Forfeiture
2601 Restricted Account created in Section 77-11b-402.

2602 Section 53. Section ~~77-11b-402~~, which is renumbered from Section 24-4-116 is
2603 renumbered and amended to read:

2604 ~~[24-4-116].~~ **77-11b-402. Criminal Forfeiture Restricted Account.**

2605 (1) There is created within the General Fund a restricted account known as the
2606 "Criminal Forfeiture Restricted Account."

2607 (2) Except as provided in Section [~~24-4-115~~] ~~77-11b-401~~, the commission shall deposit
2608 any proceeds from [~~forfeited property and forfeited money~~] property forfeited through a
2609 forfeiture proceeding under this chapter into the [~~account~~] Criminal Forfeiture Restricted
2610 Account.

2611 (3) [~~Money in the account shall be appropriated~~] The Legislature shall appropriate
2612 money in the Criminal Forfeiture Restricted Account to the commission for the purpose of
2613 implementing the [~~program under Section 24-4-117~~] State Asset Forfeiture Grant Program
2614 described in Section 77-11b-403.

2615 Section 54. Section ~~77-11b-403~~, which is renumbered from Section 24-4-117 is
2616 renumbered and amended to read:

2617 ~~[24-4-117].~~ **77-11b-403. State Asset Forfeiture Grant Program.**

2618 (1) There is created the State Asset Forfeiture Grant Program.

2619 (2) The program shall fund crime prevention, crime victim reparations, and law
2620 enforcement activities that have the purpose of:

2621 (a) deterring crime by depriving criminals of the profits and proceeds of their illegal
2622 activities;

2623 (b) weakening criminal enterprises by removing the instrumentalities of crime;

2624 (c) reducing crimes involving substance abuse by supporting the creation,
2625 administration, or operation of drug court programs throughout the state;

2626 (d) encouraging cooperation between agencies;

2627 (e) allowing the costs and expenses of law enforcement to be defrayed by the forfeited
2628 proceeds of crime;

2629 (f) increasing the equitability and accountability of the use of forfeited property used to

2630 assist agencies in reducing and preventing crime; and

2631 (g) providing aid to victims of criminally injurious conduct, as defined in Section
2632 [63M-7-502](#), who may be eligible for assistance under Title 63M, Chapter 7, Part 5, Utah Office
2633 for Victims of Crime.

2634 (3) (a) Upon appropriation of funds from the [~~account~~] Criminal Forfeiture Restricted
2635 Account, the commission shall allocate and administer grants to an agency or political
2636 subdivision of the state in compliance with this section and Subsection [~~24-4-119(2)~~]
2637 [77-11b-105\(2\)](#) and to further the program purposes under Subsection (2).

2638 (b) The commission may retain up to 3% of the annual appropriation from the
2639 [~~account~~] Criminal Forfeiture Restricted Account to pay for administrative costs incurred by
2640 the commission, including salary and benefits, equipment, supplies, or travel costs that are
2641 directly related to the administration of the program.

2642 (4) An agency or political subdivision shall apply for an award from the program by
2643 completing and submitting forms specified by the commission.

2644 (5) In granting the awards, the commission shall ensure that the amount of each award
2645 takes into consideration the:

2646 (a) demonstrated needs of the agency or political subdivision;

2647 (b) demonstrated ability of the agency or political subdivision to appropriately use the
2648 award;

2649 (c) degree to which the agency's or political subdivision's need is offset through the
2650 agency's or political subdivision's participation in federal equitable sharing or through other
2651 federal and state grant programs; and

2652 (d) agency's or political subdivision's cooperation with other state and local agencies
2653 and task forces.

2654 (6) The commission may award a grant to any agency or political subdivision engaged
2655 in activities associated with Subsection (2) even if the agency has not contributed to the fund.

2656 (7) An applying agency or political subdivision shall demonstrate compliance with all
2657 reporting and policy requirements applicable under this chapter and under Title 63M, Chapter
2658 7, Criminal Justice and Substance Abuse, in order to qualify as a potential award recipient.

2659 (8) (a) A recipient agency may only use award money after approval by the agency's
2660 legislative body.

- 2661 (b) The award money is nonlapsing.
- 2662 (9) A recipient agency or political subdivision shall use an award:
- 2663 (a) only for law enforcement purposes described in this section, or for victim
- 2664 reparations as described in Subsection (2)(g); and
- 2665 (b) for the purposes specified by the agency or political subdivision in the agency's or
- 2666 political subdivision's application for the award.
- 2667 (10) A permissible law enforcement purpose for which award money may be used
- 2668 includes:
- 2669 (a) controlled substance interdiction and enforcement activities;
- 2670 (b) drug court programs;
- 2671 (c) activities calculated to enhance future law enforcement investigations;
- 2672 (d) law enforcement training that includes:
- 2673 (i) implementation of the Fourth Amendment to the United States Constitution and
- 2674 Utah Constitution, Article I, Section 7, and that addresses the protection of the individual's
- 2675 right of due process;
- 2676 (ii) protection of the rights of innocent property holders; and
- 2677 (iii) the Tenth Amendment to the United States Constitution regarding states'
- 2678 sovereignty and the states' reserved rights;
- 2679 (e) law enforcement or detention facilities;
- 2680 (f) law enforcement operations or equipment that are not routine costs or operational
- 2681 expenses;
- 2682 (g) drug, gang, or crime prevention education programs that are sponsored in whole or
- 2683 in part by the law enforcement agency or its legislative body;
- 2684 (h) matching funds for other state or federal law enforcement grants; and
- 2685 (i) the payment of legal costs, attorney fees, and postjudgment interest in forfeiture
- 2686 actions.
- 2687 (11) A law enforcement purpose for which award money may not be granted or used
- 2688 includes:
- 2689 (a) payment of salaries, retirement benefits, or bonuses to any individual;
- 2690 (b) payment of expenses not related to law enforcement;
- 2691 (c) uses not specified in the agency's award application;

- 2692 (d) uses not approved by the agency's legislative body;
- 2693 (e) payments, transfers, or pass-through funding to an entity other than an agency; or
- 2694 (f) uses, payments, or expenses that are not within the scope of the agency's functions.

2695 Section 55. Section ~~77-11b-404~~, which is renumbered from Section 24-4-118 is
2696 renumbered and amended to read:

2697 ~~[24-4-118]~~. **77-11b-404. Forfeiture reporting requirements.**

2698 (1) An agency shall provide all reasonably available data described in Subsection (5):

2699 (a) if transferring the forfeited property resulting from the final disposition of any civil
2700 or criminal forfeiture matter to the commission as required under Subsection ~~[24-4-115(5)]~~
2701 77-11b-401(5); or

2702 (b) if the agency has been awarded an equitable share of property forfeited by the
2703 federal government.

2704 (2) The commission shall develop a standardized report format that each agency shall
2705 use in reporting the data required under this section.

2706 (3) The commission shall annually, on or before April 30, prepare a summary report of
2707 the case data submitted by each agency under Subsection (1) during the prior calendar year.

2708 (4) (a) If an agency does not comply with the reporting requirements under this section,
2709 the commission shall contact the agency and request that the agency comply with the required
2710 reporting provisions.

2711 (b) If an agency fails to comply with the reporting requirements under this section
2712 within 30 days after receiving the request to comply, the commission shall report the
2713 noncompliance to the attorney general, the speaker of the House of Representatives, and the
2714 president of the Senate.

2715 (5) The data for any civil or criminal forfeiture matter for which final disposition has
2716 been made under Subsection (1) shall include:

2717 (a) the agency that conducted the seizure;

2718 (b) the case number or other identification;

2719 (c) the date or dates on which the seizure was conducted;

2720 (d) the number of individuals having a known property interest in each seizure of
2721 property;

2722 (e) the type of property seized;

- 2723 (f) the alleged offense that was the cause for seizure of the property;
- 2724 (g) whether any criminal charges were filed regarding the alleged offense, and if so, the
2725 final disposition of each charge, including the conviction, acquittal, or dismissal, or whether
2726 action on a charge is pending;
- 2727 (h) the type of enforcement action that resulted in the seizure, including an
2728 enforcement stop, a search warrant, or an arrest warrant;
- 2729 (i) whether the forfeiture procedure was civil or criminal;
- 2730 (j) the value of the property seized, including currency and the estimated market value
2731 of any tangible property;
- 2732 (k) the final disposition of the matter, including whether final disposition was entered
2733 by stipulation of the parties, including the amount of property returned to any claimant, by
2734 default, by summary judgment, by jury award, or by guilty plea or verdict in a criminal
2735 forfeiture;
- 2736 (l) if the property was forfeited by the federal government, the amount of forfeited
2737 money awarded to the agency;
- 2738 (m) the agency's direct costs, expense of reporting under this section, and expenses for
2739 obtaining and maintaining the seized property, as described in Subsection [~~24-4-115(3)(a)~~]
2740 [77-11b-401\(3\)\(a\)](#);
- 2741 (n) the legal costs and attorney fees paid to the prosecuting attorney, as described in
2742 Subsection [~~24-4-115(3)(b)~~] [77-11b-401\(3\)\(b\)](#); and
- 2743 (o) if the property was transferred to a federal agency or any governmental entity not
2744 created under and subject to state law:
- 2745 (i) the date of the transfer;
- 2746 (ii) the name of the federal agency or entity to which the property was transferred;
- 2747 (iii) a reference to which reason under Subsection [~~24-2-106(3)~~] [77-11a-205\(3\)](#)
2748 justified the transfer;
- 2749 (iv) the court or agency where the forfeiture case was heard;
- 2750 (v) the date of the order of transfer of the property; and
- 2751 (vi) the value of the property transferred to the federal agency, including currency and
2752 the estimated market value of any tangible property.
- 2753 (6) An agency shall annually on or before April 30 submit a report for the prior

2754 calendar year to the commission that states:

2755 (a) whether the agency received an award from the State Asset Forfeiture Grant
2756 Program under Section [~~24-4-117~~] [77-11b-403](#) and, if so, the following information for each
2757 award:

- 2758 (i) the amount of the award;
- 2759 (ii) the date of the award;
- 2760 (iii) how the award was used or is planned to be used; and
- 2761 (iv) a statement signed by both the agency's executive officer or designee and by the
2762 agency's legal counsel, that:

2763 (A) the agency has complied with all inventory, policy, and reporting requirements
2764 under Section [~~24-4-117~~] [77-11b-403](#); and

2765 (B) all awards were used for crime reduction or law enforcement purposes as specified
2766 in the application and that the awards were used only upon approval by the agency's legislative
2767 body; and

2768 (b) whether the agency received any property, money, or other things of value in
2769 accordance with federal law as described in Subsection [~~24-2-105(7)~~] [77-11a-205\(7\)](#) and, if so,
2770 the following information for each piece of property, money, or other thing of value:

- 2771 (i) the case number or other case identification;
- 2772 (ii) the value of the award and the property, money, or other things of value received by
2773 the agency;
- 2774 (iii) the date of the award;
- 2775 (iv) the identity of any federal agency involved in the forfeiture;
- 2776 (v) how the awarded property has been used or is planned to be used; and
- 2777 (vi) a statement signed by both the agency's executive officer or designee and by the
2778 agency's legal counsel, that the agency has only used the award for crime reduction or law
2779 enforcement purposes authorized under Section [~~24-4-117~~] [77-11b-403](#), and that the award was
2780 used only upon approval by the agency's legislative body.

2781 (7) (a) On or before July 1 of each year, the commission shall submit notice of the
2782 annual reports in Subsection (3) and Subsection (6), in electronic format, to:

- 2783 (i) the attorney general;
- 2784 (ii) the speaker of the House of Representatives, for referral to any House standing or

2785 interim committees with oversight over law enforcement and criminal justice;

2786 (iii) the president of the Senate, for referral to any Senate standing or interim

2787 committees with oversight over law enforcement and criminal justice; and

2788 (iv) each law enforcement agency.

2789 (b) The reports described in Subsection (3) and Subsection (6), as well as the

2790 individual case data described in Subsection (1) for the previous calendar year, shall be

2791 published on the Utah Open Government website at open.utah.gov on or before July 15 of each

2792 year.

2793 Section 56. Section **77-11c-101**, which is renumbered from Section 53-20-101 is

2794 renumbered and amended to read:

2795 **CHAPTER 11c. RETENTION OF EVIDENCE**

2796 **Part 1. General Provisions**

2797 ~~[53-20-101].~~ **77-11c-101. Definitions.**

2798 As used in this chapter:

2799 (1) "Acquitted" means the same as that term is defined in Section [77-11b-101](#).

2800 (2) "Adjudicated" means that:

2801 (a) (i) a judgment of conviction by plea or verdict of an offense has been entered by a
2802 court; and

2803 (ii) a sentence has been imposed by the court; or

2804 (b) a judgment has been entered for an adjudication of an offense by a juvenile court
2805 under Section [80-6-701](#).

2806 (3) "Adjudication" means:

2807 (a) a judgment of conviction by plea or verdict of an offense; or

2808 (b) an adjudication for an offense by a juvenile court under Section [80-6-701](#).

2809 (4) "Agency" means the same as that term is defined in Section [77-11a-101](#).

2810 (5) "Appellate court" means the Utah Court of Appeals, the Utah Supreme Court, or
2811 the United States Supreme Court.

2812 [(+)] (6) (a) "Biological evidence" means an item that contains blood, semen, hair,
2813 saliva, epithelial cells, latent fingerprint evidence that may contain biological material suitable
2814 for DNA testing, or other identifiable human biological material that:

2815 (i) is collected as part of an investigation or prosecution of a violent felony offense;

2816 and

2817 (ii) may reasonably be used to incriminate or exculpate a person for the violent felony
2818 offense.

2819 (b) "Biological evidence" includes:

2820 (i) material that is catalogued separately, including:

2821 (A) on a slide or swab; or

2822 (B) inside a test tube, if the evidentiary sample that previously was inside the test tube
2823 has been consumed by testing;

2824 (ii) material that is present on other evidence, including clothing, a ligature, bedding, a
2825 drinking cup, a cigarette, or a weapon, from which a DNA profile may be obtained;

2826 (iii) the contents of a sexual assault examination kit; and

2827 (iv) for a violent felony offense, material described in this Subsection ~~[(+)]~~ (6) that is in
2828 the custody of an evidence collecting or retaining entity on May 4, 2022.

2829 (7) "Claimant" means the same as that term is defined in Section 77-11a-101.

2830 (8) "Computer" means the same as that term is defined in Section 77-11a-101.

2831 ~~[(2)]~~ (9) "Continuous chain of custody" means:

2832 (a) for a law enforcement agency or a court, that legal standards regarding a continuous
2833 chain of custody are maintained; and

2834 (b) for an entity that is not a law enforcement agency or a court, that the entity
2835 maintains a record in accordance with legal standards required of the entity.

2836 (10) "Contraband" means the same as that term is defined in Section 77-11a-101.

2837 (11) "Controlled substance" means the same as that term is defined in Section 58-37-2.

2838 ~~[(3)]~~ (12) "Court" means a municipal, county, or state court.

2839 ~~[(4)]~~ (13) "DNA" means deoxyribonucleic acid.

2840 ~~[(5)]~~ (14) "DNA profile" means a unique identifier of an individual derived from DNA.

2841 (15) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

2842 (16) "Evidence" means property, contraband, or an item or substance that:

2843 (a) is seized or collected as part of an investigation or prosecution of an offense; and

2844 (b) may reasonably be used to incriminate or exculpate an individual for an offense.

2845 ~~[(6)]~~ (17) (a) "Evidence collecting or retaining entity" means an entity within the state
2846 that collects, stores, or retrieves biological evidence.

2847 (b) "Evidence collecting or retaining entity" includes:
 2848 (i) a medical or forensic entity;
 2849 (ii) a law enforcement agency;
 2850 (iii) a court; and
 2851 (iv) an official, employee, or agent of an entity or agency described in this ~~[Subsection~~
 2852 ~~(6)]~~ Subsection (17).

2853 (18) "Exhibit" means property, contraband, or an item or substance that is admitted
 2854 into evidence for a court proceeding.

2855 ~~[(7)]~~ (19) "In custody" means an individual who:
 2856 (a) is incarcerated, civilly committed, on parole, or on probation; or
 2857 (b) is required to register under Title 77, Chapter 41, Sex and Kidnap Offender
 2858 Registry.

2859 ~~[(8) "Law enforcement agency" means:]~~
 2860 ~~[(a) a municipal, county, state institution of higher education, or state police force or~~
 2861 ~~department;]~~

2862 ~~[(b) a sheriff's office; or]~~
 2863 ~~[(c) a municipal, county, or state prosecuting authority.]~~

2864 (20) "Law enforcement agency" means the same as that term is defined in Section
 2865 77-11a-101.

2866 ~~[(9)]~~ (21) "Medical or forensic entity" means a private or public hospital, medical
 2867 facility, or other entity that secures biological evidence or conducts forensic examinations
 2868 related to criminal investigations.

2869 ~~[(10)]~~ (22) "Physical evidence" includes evidence that:
 2870 (a) is related to:
 2871 (i) an investigation;
 2872 (ii) an arrest; or
 2873 (iii) a prosecution that resulted in a judgment of conviction; and
 2874 (b) is in the actual or constructive possession of a law enforcement agency or a court or
 2875 an agent of a law enforcement agency or a court.

2876 (23) "Property" means the same as that term is defined in Section 77-11a-101.

2877 (24) "Prosecuting attorney" means the same as that term is defined in Section

2878 77-11a-101.

2879 (25) "Violent felony offense" means the same as the term "violent felony" is defined in

2880 Section 76-3-203.5.

2881 (26) "Wildlife" means the same as that term is defined in Section 23-13-2.

2882 [~~(11) "Violent felony" means the same as that term is defined in Section 76-3-203.5.]~~

2883 Section 57. Section **77-11c-102** is enacted to read:

2884 **77-11c-102. Retention of evidence as an exhibit.**

2885 (1) If evidence is admitted as an exhibit for a court proceeding, the clerk of the court

2886 shall:

2887 (a) retain the evidence; or

2888 (b) return the evidence to the custody of the agency.

2889 (2) Rule 4-206 of the Utah Code of Judicial Administration applies to evidence that is

2890 admitted as an exhibit in a court proceeding.

2891 Section 58. Section **77-11c-103** is enacted to read:

2892 **77-11c-103. Disposal or return of evidence.**

2893 When evidence is no longer subject to retention under this chapter, the agency shall:

2894 (1) return evidence that is property to a claimant under Title 77, Chapter 11a, Part 3,

2895 Release of Seized Property to Claimant; or

2896 (2) dispose of evidence that is property or contraband in accordance with Title 77,

2897 Chapter 11a, Part 4, Disposal of Seized Property and Contraband.

2898 Section 59. Section **77-11c-201** is enacted to read:

2899 **Part 2. Retention of Evidence for Misdemeanor Offenses**

2900 **77-11c-201. Retention of evidence of misdemeanor offenses.**

2901 (1) An agency shall retain evidence of a misdemeanor offense for the longer of:

2902 (a) the length of the statute of limitations for the offense if:

2903 (i) no charges are filed for the offense; or

2904 (ii) the offense remains unsolved;

2905 (b) 60 days after the day on which any individual charged with the offense is acquitted

2906 if each individual charged with the offense is acquitted;

2907 (c) 90 days after the day on which any individual is adjudicated for the offense if:

2908 (i) each individual charged with the offense has been adjudicated;

- 2909 (ii) there is no appeal pending in:
- 2910 (A) an appellate court for any individual adjudicated for the offense; or
- 2911 (B) the district court for a trial de novo for any individual adjudicated by a justice court
- 2912 for the offense; and
- 2913 (iii) there is no post-trial motion pending in the court:
- 2914 (A) for a new trial under Rule 24 of the Utah Rules of Criminal Procedure;
- 2915 (B) to amend or make additional findings of fact under Rule 52(b) of the Utah Rules of
- 2916 Civil Procedure; or
- 2917 (C) for relief under Rule 60(b) of the Utah Rules of Civil Procedure;
- 2918 (d) 30 days after the day on which any individual is adjudicated by a district court for
- 2919 the offense on a trial de novo from the justice court if:
- 2920 (i) each individual charged with the offense has been adjudicated by a justice court or a
- 2921 district court on a trial de novo from the justice court; and
- 2922 (ii) there is no appeal pending in:
- 2923 (A) an appellate court for any individual adjudicated for the offense; or
- 2924 (B) the district court for a trial de novo for any individual adjudicated by a justice court
- 2925 for the offense; or
- 2926 (e) 30 days after the day on which an appellate court issues a remittitur for an appeal of
- 2927 any individual adjudicated for the offense if:
- 2928 (i) the appellate court's final decision upholds the individual's adjudication;
- 2929 (ii) each individual charged with the offense has been adjudicated; and
- 2930 (iii) there is no appeal pending in:
- 2931 (A) an appellate court for any individual adjudicated for the offense; or
- 2932 (B) the district court for a trial de novo for any individual adjudicated by a justice court
- 2933 for the offense.
- 2934 (2) Subsection (1) does not require an agency to return or dispose of evidence of a
- 2935 misdemeanor offense.
- 2936 (3) An agency shall ensure that evidence of a misdemeanor offense is subject to a
- 2937 continuous chain of custody.
- 2938 Section 60. Section **77-11c-202** is enacted to read:
- 2939 **77-11c-202. Requirements for not retaining evidence -- Preservation of sufficient**

2940 **evidence.**

2941 (1) An agency is not required to retain evidence of a misdemeanor offense under
2942 Section [77-11c-201](#) if:

2943 (a) (i) the agency determines that:

2944 (A) the size, bulk, or physical character of the evidence renders retention
2945 impracticable; or

2946 (B) the evidence poses a security or safety problem for the agency;

2947 (ii) the agency preserves sufficient evidence of the property, contraband, item, or
2948 substance for use as evidence in a prosecution of the offense in accordance with this section;

2949 (iii) the agency sends a written request under Subsection [77-11c-203](#)(1) to the
2950 prosecuting attorney for permission to release or dispose of the evidence; and

2951 (iv) the prosecuting attorney grants the agency's written request in accordance with
2952 Section [77-11c-203](#);

2953 (b) a court orders the agency to return evidence that is property to a claimant under
2954 Section [77-11a-305](#); or

2955 (c) the evidence is wildlife or parts of wildlife.

2956 (2) (a) Subsection (1) does not require an agency to return or dispose of evidence of a
2957 misdemeanor offense.

2958 (b) Subsection (1)(a) does not apply when the release or disposal of evidence of a
2959 misdemeanor offense is in compliance with a memorandum of understanding between the
2960 agency and the prosecuting attorney.

2961 (3) If evidence is a controlled substance, an agency shall preserve sufficient evidence
2962 under Subsection (1)(a)(ii) of the controlled substance by:

2963 (a) collecting and preserving a sample of the controlled substance and a sample of
2964 biological evidence from the controlled substance for independent testing and use as evidence;

2965 (b) taking a photographic or video record of the controlled substance with identifying
2966 case numbers;

2967 (c) ~~Ĥ→ [completing a written report of a chemical analysis of the controlled substance]~~
2967a **maintaining a written report of a chemical analysis of the controlled substance if a chemical**
2967b **analysis was performed by the agency** ←Ĥ ; and

2968 (d) if the controlled substance exceeds 10 pounds, retain at least one pound of the
2969 controlled substance that is randomly selected from the controlled substance.

2970 (4) If evidence is drug paraphernalia, an agency shall preserve sufficient evidence

2971 under Subsection (1)(a)(ii) of the drug paraphernalia by:

2972 (a) collecting and preserving a sample of the controlled substance from the drug
2973 paraphernalia for independent testing and use as evidence;

2974 (b) maintaining a written report of a chemical analysis of the drug paraphernalia if a
2975 chemical analysis was performed by the agency; and

2976 (c) taking a photographic or video record of the drug paraphernalia with identifying
2977 case numbers.

2978 (5) If evidence is a computer, the agency shall preserve sufficient evidence under
2979 Subsection (1)(a)(ii) of the computer by:

2980 (a) extracting all data from the computer that would be evidence in a prosecution of an
2981 individual for the offense;

2982 (b) collecting a sample of biological evidence from the computer for independent
2983 testing and use as evidence; and

2984 (c) taking a photographic or video record of the computer with identifying case
2985 numbers.

2986 (6) For any other type of evidence, the agency shall preserve sufficient evidence under
2987 Subsection (1)(a)(ii) of the property, contraband, item, or substance by:

2988 (a) collecting and preserving a sample of biological evidence from the property,
2989 contraband, item, or substance for independent testing and use as evidence; and

2990 (b) taking a photographic or video record of the property, contraband, item, or
2991 substance with identifying case numbers.

2992 Section 61. Section **77-11c-203** is enacted to read:

2993 **77-11c-203. Request to prosecuting attorney by agency -- Notification to**
2994 **defendant.**

2995 (1) If an agency determines that the agency is not required to retain evidence of a
2996 misdemeanor offense under Subsection [77-11c-202\(1\)\(a\)\(i\)](#) and the agency seeks to release or
2997 dispose of the evidence, the agency shall send a written request to the prosecuting attorney that:

2998 (a) identifies the evidence;

2999 (b) explains the reason for which the agency is not required to retain the evidence
3000 under Subsection [77-11c-202\(1\)\(a\)\(i\)](#); and

3001 (c) explains the steps that the agency will take, or has taken, to preserve sufficient

3002 evidence of the property, contraband, item, or substance for use as evidence in a prosecution of
3003 the offense.

3004 (2) If the prosecuting attorney receives a written request under Subsection (1) and
3005 determines that the agency needs to retain the evidence for a prosecution of the misdemeanor
3006 offense, the prosecuting attorney shall send a written notification to the agency that explains
3007 the reason for which the prosecuting attorney is denying the agency's request.

3008 (3) If the prosecuting attorney receives a written request under Subsection (1) and
3009 determines that the agency does not need to retain the evidence for a prosecution of the
3010 misdemeanor offense, the prosecuting attorney shall provide written notice of the intent to not
3011 retain the evidence that:

3012 (a) is sent by certified mail, return receipt requested, or a delivery service that provides
3013 proof of delivery, to:

3014 (i) any individual charged with or adjudicated for the offense; and
3015 (ii) the individual's most recent attorney of record; and

3016 (b) explains that the individual receiving the notice may submit a written objection to
3017 the prosecuting attorney.

3018 (4) (a) An individual, who is charged with or adjudicated for the offense, may submit a
3019 written objection to the disposal or release of the evidence by the agency no later than 30 days
3020 after the day on which the prosecuting attorney receives proof of delivery under Subsection (3).

3021 (b) If an individual submits a written objection under Subsection (4)(a), the prosecuting
3022 attorney shall send a written notification to the agency that explains the reason for which the
3023 prosecuting attorney is denying the agency's request.

3024 (c) If the prosecuting attorney does not receive a written objection within the time
3025 period described in Subsection (4)(a), the prosecuting attorney shall send a written notification
3026 to the agency that grants the agency's request to release or dispose of the evidence.

3027 (5) (a) If a prosecuting attorney receives a written request from an agency seeking to
3028 release or dispose of evidence, the prosecuting attorney shall:

3029 (i) provide a notice of receipt to the agency within 15 days after the day on which the
3030 prosecuting attorney receives the written request; and

3031 (ii) send a written notification to the agency of the prosecuting attorney's decision to
3032 deny or grant an agency's written request within 60 days after the day on which the prosecuting

3033 attorney receives the agency's written request.

3034 (b) If an agency does not receive a notice of receipt under Subsection (5)(a)(i) or a
 3035 written notification under Subsection (5)(a)(ii), the agency may send the written request to the
 3036 district attorney, county attorney, attorney general, or other prosecuting attorney who directly
 3037 oversees and supervises the prosecuting attorney.

3038 (6) If a prosecuting attorney denies an agency's written request to release or dispose of
 3039 evidence under this section, the agency shall retain the evidence in accordance with Section
 3040 [77-11c-201](#).

3041 (7) The requirements of this section do not apply when the release or disposal of
 3042 evidence of a misdemeanor offense is in compliance with a memorandum of understanding
 3043 between the agency and the prosecuting attorney.

3044 Section 62. Section **77-11c-301**, which is renumbered from Section 24-2-106 is
 3045 renumbered and amended to read:

3046 **Part 3. Retention of Evidence for Felony Offenses**

3047 ~~[24-2-106].~~ **77-11c-301. Retention of evidence for felony offenses.**

3048 ~~[(1) If seized property is admitted into evidence during a court proceeding, the clerk of~~
 3049 ~~the court shall:]~~

3050 ~~[(a) retain the property, or]~~

3051 ~~[(b) return the property to the custody of the agency.]~~

3052 ~~[(2) Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation, the~~
 3053 ~~agency shall retain seized or forfeited property:]~~

3054 (1) Except as provided in Subsection (4) and Subsection [23-20-1\(3\)](#), an agency shall
 3055 retain evidence of a felony offense:

3056 (a) at the discretion of the prosecuting attorney; or

3057 (b) until all direct appeals and retrials are final.

3058 ~~[(3)]~~ (2) If the prosecuting attorney decides to retain control over the [seized or
 3059 forfeited property under Subsection (2)(a)] evidence of the felony offense in anticipation of
 3060 possible collateral attacks upon the judgment or for use in a potential prosecution, the
 3061 prosecuting attorney may decline to authorize the disposal of the [property] evidence.

3062 (3) An agency shall ensure that evidence of a felony offense is subject to a continuous
 3063 chain of custody.

3064 (4) An agency shall retain and preserve biological evidence of a violent felony offense
3065 in accordance with Part 4, Preservation of Biological Evidence for Violent Felony Offenses.

3066 Section 63. Section **77-11c-401**, which is renumbered from Section 53-20-102 is
3067 renumbered and amended to read:

3068 **Part 4. Preservation of Biological Evidence for Violent Felony Offenses**

3069 **~~[53-20-102].~~ 77-11c-401. Preservation of biological evidence -- Procedures**
3070 **-- Inventory request.**

3071 (1) Except as provided in Section [~~53-20-103~~] 77-11c-402, an evidence collecting or
3072 retaining entity shall preserve biological evidence[?] of a violent felony offense in accordance
3073 with this part.

3074 (2) An evidence collecting or retaining entity shall preserve biological evidence of a
3075 violent felony offense:

3076 (a) for the longer of:

3077 (i) the length of the statute of limitations for the violent felony offense if:

3078 (A) no charges are filed for the violent felony offense; or

3079 (B) the violent felony offense remains unsolved;

3080 (ii) the length of time that the individual convicted of the violent felony offense or any
3081 lesser included violent offense remains in custody; or

3082 (iii) the length of time that a co-defendant remains in custody;

3083 (b) in an amount and manner sufficient to:

3084 (i) develop a DNA profile; and

3085 (ii) if practicable, allow for independent testing of the biological evidence by a
3086 defendant; and

3087 (c) subject to a continuous chain of custody.

3088 [~~(2)~~] (3) (a) Upon request by a defendant under Title 63G, Chapter 2, Government
3089 Records Access and Management Act, the evidence collecting or retaining entity shall prepare
3090 an inventory of the biological evidence preserved in connection with the defendant's criminal
3091 case.

3092 (b) If the evidence collecting or retaining entity cannot locate biological evidence
3093 requested under Subsection [~~(2)(a)~~] (3)(a), the custodian for the entity shall provide a sworn
3094 affidavit to the defendant that:

3095 (i) describes the efforts taken to locate the biological evidence; and
3096 (ii) affirms that the biological evidence could not be located.
3097 ~~[(3)]~~ (4) The evidence collecting or retaining entity may dispose of biological evidence
3098 before the day on which the period described in Subsection ~~[(1)(a)]~~ (2)(a) expires if:
3099 (a) no other provision of federal or state law requires the evidence collecting or
3100 retaining entity to preserve the biological evidence;
3101 (b) the evidence collecting or retaining entity sends notice in accordance with
3102 Subsection ~~[(4)]~~ (5); and
3103 (c) an individual notified under Subsection ~~[(4)(a)]~~ (5)(a) does not within 180 days
3104 after the day on which the evidence collecting or retaining entity receives proof of delivery
3105 under Subsection ~~[(4)]~~ (5):
3106 (i) file a motion for testing of the biological evidence under Section 78B-9-301; or
3107 (ii) submit a written request under Subsection ~~[(4)(b)(ii)]~~ (5)(b)(ii).
3108 ~~[(4)]~~ (5) If the evidence collecting or retaining entity intends to dispose of the
3109 biological evidence before the day on which the period described in Subsection ~~[(1)(a)]~~ (2)(a)
3110 expires, the evidence collecting or retaining entity shall send a notice of intent to dispose of the
3111 biological evidence that:
3112 (a) is sent by certified mail, return receipt requested, or a delivery service that provides
3113 proof of delivery, to:
3114 (i) an individual who remains in custody based on a criminal conviction related to the
3115 biological evidence;
3116 (ii) the private attorney or public defender of record for each individual described in
3117 Subsection ~~[(4)(a)(i)]~~ (5)(a)(i);
3118 (iii) if applicable, the prosecuting agency responsible for the prosecution of each
3119 individual described in Subsection ~~[(4)(a)(i)]~~ (5)(a)(i); and
3120 (iv) the Utah attorney general; and
3121 (b) explains that the party receiving the notice may:
3122 (i) file a motion for testing of biological evidence under Section 78B-9-301; or
3123 (ii) submit a written request that the evidence collecting or retaining entity retain the
3124 biological evidence.
3125 ~~[(5)]~~ (6) (a) Subject to Subsections ~~[(5)(b) and (c)]~~ (6)(b) and (c), if the evidence

3126 collecting or retaining entity receives a written request to retain the biological evidence under
3127 Subsection ~~[(4)(b)(ii)]~~ (5)(b)(ii), the evidence collecting or retaining entity shall retain the
3128 biological evidence while the defendant remains in custody.

3129 (b) Subject to Subsection ~~[(5)(c)]~~ (6)(c), the evidence collecting or retaining entity is
3130 not required to preserve physical evidence that may contain biological evidence if the physical
3131 evidence's size, bulk, or physical character renders retention impracticable.

3132 (c) If the evidence collecting or retaining entity determines that retention is
3133 impracticable, before returning or disposing of the physical evidence, the evidence collecting or
3134 retaining entity shall:

3135 (i) remove the portions of the physical evidence likely to contain biological evidence
3136 related to the violent felony offense; and

3137 (ii) preserve the removed biological evidence in a quantity sufficient to permit future
3138 DNA testing.

3139 ~~[(6)]~~ (7) To comply with the preservation requirements described in this section, a law
3140 enforcement agency or a court may:

3141 (a) retain the biological evidence; or

3142 (b) if a continuous chain of custody can be maintained, return the biological evidence
3143 to the custody of the other law enforcement agency that originally provided the biological
3144 evidence to the law enforcement agency.

3145 Section 64. Section ~~77-11c-402~~, which is renumbered from Section 53-20-103 is
3146 renumbered and amended to read:

3147 ~~[53-20-103]~~. 77-11c-402. Exceptions to preservation of biological
3148 evidence.

3149 (1) As used in this section, "offense concerning driving under the influence" means:

3150 (a) Section [41-6a-502](#);

3151 (b) Section [41-6a-502.5](#);

3152 (c) Section [41-6a-517](#);

3153 (d) Section [41-6a-530](#);

3154 (e) Section [76-5-102.1](#);

3155 (f) Section [76-5-207](#); and

3156 (g) a local ordinance similar to the offenses described in this Subsection (1).

3157 (2) Section [~~53-20-102~~] 77-11c-402 does not apply to biological evidence obtained
3158 during an investigation or prosecution for an offense concerning driving under the influence
3159 solely for toxicology purposes.

3160 Section 65. Section ~~77-11c-403~~, which is renumbered from Section 53-20-104 is
3161 renumbered and amended to read:

3162 ~~[53-20-104]~~. 77-11c-403. Remedies for failure to preserve biological
3163 evidence.

3164 (1) (a) Except as provided in Subsections (1)(b) and (2), if a court finds that biological
3165 evidence that reasonably could have been found to be exculpatory in a defendant's criminal
3166 case was not preserved in accordance with this chapter, the court may impose sanctions and
3167 remedies at the court's discretion, including:

- 3168 (i) the grant of a new trial;
3169 (ii) an instruction to the jury that evidence was not preserved as required by law;
3170 (iii) the reduction of the sentence;
3171 (iv) the dismissal of the criminal charge;
3172 (v) the vacation of the conviction; or
3173 (vi) the entry of a finding that because the evidence was not preserved in accordance
3174 with this chapter, a presumption exists that the evidence would have been exculpatory to the
3175 defendant.

3176 (b) The provisions in Subsection (1)(a) apply only if:

- 3177 (i) a defendant's appeal has not concluded;
3178 (ii) a defendant's time for appeal has not expired; or
3179 (iii) a defendant has received a new trial in accordance with Subsection (2)(b).

3180 (2) (a) A defendant shall seek relief under Title 78B, Chapter 9, Postconviction
3181 Remedies Act, if:

3182 (i) the defendant alleges that the biological evidence that is the basis for the defendant's
3183 claim was not preserved in accordance with this chapter; and

- 3184 (ii) (A) the defendant's appeal has concluded; or
3185 (B) the time for the defendant's appeal has expired.

3186 (b) If a defendant obtains relief under Title 78B, Chapter 9, Postconviction Remedies
3187 Act, the provisions in Subsection (1) apply to the defendant's new trial.

3188 Section 66. Section **77-11d-101**, which is renumbered from Section 77-24a-1 is
3189 renumbered and amended to read:

3190 **CHAPTER 11d. LOST OR MISLAID PROPERTY**

3191 ~~[77-24a-1].~~ **77-11d-101. Definitions.**

3192 As used in this chapter:

3193 (1) "Interest holder" means the same as that term is defined in Section [77-11a-101](#).

3194 ~~[(1)]~~ (2) "Lost or mislaid property":

3195 (a) means any property that comes into the possession of a peace officer or law

3196 enforcement agency:

3197 (i) that is not claimed by anyone who is identified as the owner of the property; or

3198 (ii) for which no owner or interest holder can be found after a reasonable and diligent

3199 search;

3200 (b) includes any property received by a peace officer or law enforcement agency from a

3201 person claiming to have found the property; and

3202 (c) does not include property seized by a peace officer [~~pursuant to Title 24, Forfeiture~~

3203 ~~and Disposition of Property Act]~~ in accordance with Chapter 11a, Seizure of Property and

3204 Contraband.

3205 (3) "Owner" means the same as that term is defined in Section [77-11a-101](#).

3206 ~~[(2)]~~ (4) "Public interest use" means:

3207 (a) use by a governmental agency as determined by the agency's legislative body; or

3208 (b) donation to a nonprofit charity registered with the state.

3209 Section 67. Section **77-11d-102**, which is renumbered from Section 77-24a-2 is

3210 renumbered and amended to read:

3211 ~~[77-24a-2].~~ **77-11d-102. Disposition by police agency.**

3212 All lost or mislaid property coming into the possession of a peace officer or law

3213 enforcement agency shall be turned over to, held, and disposed of only by the local law

3214 enforcement agency whose authority extends to the area where the item was found.

3215 Section 68. Section **77-11d-103**, which is renumbered from Section 77-24a-3 is

3216 renumbered and amended to read:

3217 ~~[77-24a-3].~~ **77-11d-103. Statement of finder of property.**

3218 (1) A person who finds lost or mislaid property and delivers it to a local law

3219 enforcement agency shall sign a statement included in a form provided by the agency, stating:

3220 (a) the manner in which the property came into the person's possession, including the
3221 time, date, and place;

3222 (b) that the person does not know who owns the property;

3223 (c) that, to the person's knowledge, the property was not stolen;

3224 (d) that the person's possession of the property is not unlawful; and

3225 (e) any information the person is aware of which could lead to a determination of the
3226 owner.

3227 (2) Additional information may be requested by the agency receiving the property, as
3228 necessary.

3229 Section 69. Section **77-11d-104**, which is renumbered from Section 77-24a-4 is
3230 renumbered and amended to read:

3231 ~~[77-24a-4]~~. **77-11d-104. Locating owner of property.**

3232 (1) The local law enforcement agency shall take reasonable steps to determine the
3233 identity and location of the owner, and notify the owner that the property is in custody.

3234 (2) The owner may obtain the property only by providing personal identification,
3235 identifying the property, and paying any costs incurred by the agency, including costs for
3236 advertising or storage.

3237 Section 70. Section **77-11d-105**, which is renumbered from Section 77-24a-5 is
3238 renumbered and amended to read:

3239 ~~[77-24a-5]~~. **77-11d-105. Disposition of unclaimed property.**

3240 (1) (a) If the owner of any lost or mislaid property cannot be determined or notified, or
3241 if the owner of the property is determined and notified, and fails to appear and claim the
3242 property after three months of [its] the property's receipt by the local law enforcement agency,
3243 the agency shall:

3244 (i) publish notice of the intent to dispose of the unclaimed property on Utah's Public
3245 Legal Notice Website established in Subsection [45-1-101\(2\)\(b\)](#);

3246 (ii) post a similar notice on the public website of the political subdivision within which
3247 the law enforcement agency is located; and

3248 (iii) post a similar notice in a public place designated for notice within the law
3249 enforcement agency.

3250 (b) The notice shall:
3251 (i) give a general description of the item; and
3252 (ii) the date of intended disposition.
3253 (c) The agency may not dispose of the lost or mislaid property until at least eight days
3254 after the date of publication and posting.
3255 (2) (a) If no claim is made for the lost or mislaid property within nine days of
3256 publication and posting, the agency shall notify the person who turned the property over to the
3257 local law enforcement agency, if it was turned over by a person under Section [77-24a-3]
3258 [77-11d-103](#).
3259 (b) Except as provided in Subsection (4), if that person has complied with the
3260 provisions of this chapter, the person may take the lost or mislaid property if the person:
3261 (i) pays the costs incurred for advertising and storage; and
3262 (ii) signs a receipt for the item.
3263 (3) If the person who found the lost or mislaid property fails to take the property under
3264 the provisions of this chapter, the agency shall:
3265 (a) apply the property to a public interest use as provided in Subsection (4);
3266 (b) sell the property at public auction and apply the proceeds of the sale to a public
3267 interest use; or
3268 (c) destroy the property if it is unfit for a public interest use or sale.
3269 (4) Before applying the lost or mislaid property to a public interest use, the agency
3270 having possession of the property shall obtain from the agency's legislative body:
3271 (a) permission to apply the property to a public interest use; and
3272 (b) the designation and approval of the public interest use of the property.
3273 (5) Any person employed by a law enforcement agency who finds property may not
3274 claim or receive property under this section.
3275 Section 71. Section **77-37-3** is amended to read:
3276 **77-37-3. Bill of rights.**
3277 (1) The bill of rights for victims and witnesses is:
3278 (a) Victims and witnesses have a right to be informed as to the level of protection from
3279 intimidation and harm available to them, and from what sources, as they participate in criminal
3280 justice proceedings as designated by Section [76-8-508](#), regarding witness tampering, and

3281 Section [76-8-509](#), regarding threats against a victim. Law enforcement, prosecution, and
3282 corrections personnel have the duty to timely provide this information in a form which is useful
3283 to the victim.

3284 (b) Victims and witnesses, including children and their guardians, have a right to be
3285 informed and assisted as to their role in the criminal justice process. All criminal justice
3286 agencies have the duty to provide this information and assistance.

3287 (c) Victims and witnesses have a right to clear explanations regarding relevant legal
3288 proceedings; these explanations shall be appropriate to the age of child victims and witnesses.
3289 All criminal justice agencies have the duty to provide these explanations.

3290 (d) Victims and witnesses should have a secure waiting area that does not require them
3291 to be in close proximity to defendants or the family and friends of defendants. Agencies
3292 controlling facilities shall, whenever possible, provide this area.

3293 (e) Victims may seek restitution or reparations, including medical costs, as provided in
3294 Title 63M, Chapter 7, Criminal Justice and Substance Abuse, Title 77, Chapter 38b, Crime
3295 Victims Restitution Act, and Section [80-6-710](#). State and local government agencies that serve
3296 victims have the duty to have a functional knowledge of the procedures established by the
3297 Crime Victim Reparations Board and to inform victims of these procedures.

3298 (f) Victims and witnesses have a right to have any personal property returned as
3299 provided in [~~Sections [77-24a-1](#) through [77-24a-5](#)~~] Chapter 11a, Seizure of Property and
3300 Contraband, and Chapter 11d, Lost or Mislaid Property. Criminal justice agencies shall
3301 expeditiously return the property when it is no longer needed for court law enforcement or
3302 prosecution purposes.

3303 (g) Victims and witnesses have the right to reasonable employer intercession services,
3304 including pursuing employer cooperation in minimizing employees' loss of pay and other
3305 benefits resulting from their participation in the criminal justice process. Officers of the court
3306 shall provide these services and shall consider victims' and witnesses' schedules so that
3307 activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may
3308 request that the responsible agency intercede with employers or other parties.

3309 (h) Victims and witnesses, particularly children, should have a speedy disposition of
3310 the entire criminal justice process. All involved public agencies shall establish policies and
3311 procedures to encourage speedy disposition of criminal cases.

3312 (i) Victims and witnesses have the right to timely notice of judicial proceedings they
3313 are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies
3314 have the duty to provide these notifications. Defense counsel and others have the duty to
3315 provide timely notice to prosecution of any continuances or other changes that may be required.

3316 (j) Victims of sexual offenses have the following rights:

3317 (i) the right to request voluntary testing for themselves for HIV infection as provided in
3318 Section 53-10-803 and to request mandatory testing of the alleged sexual offender for HIV
3319 infection as provided in Section 53-10-802;

3320 (ii) the right to be informed whether a DNA profile was obtained from the testing of
3321 the rape kit evidence or from other crime scene evidence;

3322 (iii) the right to be informed whether a DNA profile developed from the rape kit
3323 evidence or other crime scene evidence has been entered into the Utah Combined DNA Index
3324 System;

3325 (iv) the right to be informed whether there is a match between a DNA profile
3326 developed from the rape kit evidence or other crime scene evidence and a DNA profile
3327 contained in the Utah Combined DNA Index System, provided that disclosure would not
3328 impede or compromise an ongoing investigation; and

3329 (v) the right to designate a person of the victim's choosing to act as a recipient of the
3330 information provided under this Subsection (1)(j) and under Subsections (2) and (3).

3331 (k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency
3332 communicate with the victim or the victim's designee regarding the status of DNA testing,
3333 absent a specific request received from the victim or the victim's designee.

3334 (2) The law enforcement agency investigating a sexual offense may:

3335 (a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the
3336 request of a victim or the victim's designee and is the designated agency to provide that
3337 information to the victim or the victim's designee;

3338 (b) require that the victim's request be in writing; and

3339 (c) respond to the victim's request with verbal communication, written communication,
3340 or by email, if an email address is available.

3341 (3) The law enforcement agency investigating a sexual offense has the following
3342 authority and responsibilities:

3343 (a) If the law enforcement agency determines that DNA evidence will not be analyzed
3344 in a case where the identity of the perpetrator has not been confirmed, the law enforcement
3345 agency shall notify the victim or the victim's designee.

3346 (b) (i) If the law enforcement agency intends to destroy or dispose of rape kit evidence
3347 or other crime scene evidence from an unsolved sexual assault case, the law enforcement
3348 agency shall provide written notification of that intention and information on how to appeal the
3349 decision to the victim or the victim's designee of that intention.

3350 (ii) Written notification under this Subsection (3) shall be made not fewer than 60 days
3351 prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.

3352 (c) A law enforcement agency responsible for providing information under Subsections
3353 (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the
3354 victim or the victim's designee, shall advise the victim or the victim's designee of any
3355 significant changes in the information of which the law enforcement agency is aware.

3356 (d) The law enforcement agency investigating the sexual offense is responsible for
3357 informing the victim or the victim's designee of the rights established under Subsections
3358 (1)(j)(ii) through (iv) and (2), and this Subsection (3).

3359 (4) Informational rights of the victim under this chapter are based upon the victim
3360 providing the current name, address, telephone number, and email address, if an email address
3361 is available, of the person to whom the information should be provided to the criminal justice
3362 agencies involved in the case.

3363 Section 72. Section **78B-9-104** is amended to read:

3364 **78B-9-104. Grounds for relief -- Retroactivity of rule.**

3365 (1) Unless precluded by Section **78B-9-106** or **78B-9-107**, an individual who has been
3366 convicted and sentenced for a criminal offense may file an action in the district court of
3367 original jurisdiction for postconviction relief to vacate or modify the conviction or sentence
3368 upon the following grounds:

3369 (a) the conviction was obtained or the sentence was imposed in violation of the United
3370 States Constitution or Utah Constitution;

3371 (b) the conviction was obtained or the sentence was imposed under a statute that is in
3372 violation of the United States Constitution or Utah Constitution, or the conduct for which the
3373 petitioner was prosecuted is constitutionally protected;

3374 (c) the sentence was imposed or probation was revoked in violation of the controlling
3375 statutory provisions;

3376 (d) the petitioner had ineffective assistance of counsel in violation of the United States
3377 Constitution or Utah Constitution;

3378 (e) newly discovered material evidence exists that requires the court to vacate the
3379 conviction or sentence, because:

3380 (i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of
3381 trial or sentencing or in time to include the evidence in any previously filed post-trial motion or
3382 postconviction proceeding, and the evidence could not have been discovered through the
3383 exercise of reasonable diligence;

3384 (ii) the material evidence is not merely cumulative of evidence that was known;

3385 (iii) the material evidence is not merely impeachment evidence; and

3386 (iv) viewed with all the other evidence, the newly discovered material evidence
3387 demonstrates that no reasonable trier of fact could have found the petitioner guilty of the
3388 offense or subject to the sentence received;

3389 (f) the petitioner can prove that:

3390 (i) biological evidence, as that term is defined in Section ~~[53-20-101]~~ [77-11c-101](#),
3391 relevant to the petitioner's conviction was not preserved in accordance with ~~[Title 53, Chapter~~
3392 ~~20, Forensic Biological Evidence Preservation]~~ Title 77, Chapter 11c, Part 4, Preservation of
3393 Biological Evidence for Violent Felony Offenses;

3394 (ii) (A) the biological evidence described in Subsection (1)(f)(i) was not tested
3395 previously; or

3396 (B) if the biological evidence described in Subsection (1)(f)(i) was tested previously,
3397 there is a material change in circumstance, including a scientific or technological advance, that
3398 would make it plausible that a test of the biological evidence described in Subsection (1)(f)(i)
3399 would produce a favorable test result for the petitioner; and

3400 (iii) a favorable result described in Subsection (1)(f)(ii), which is presumed for
3401 purposes of the petitioner's action under this section, when viewed with all the other evidence,
3402 demonstrates a reasonable probability of a more favorable outcome at trial for the petitioner;

3403 (g) the petitioner can prove entitlement to relief under a rule announced by the United
3404 States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction

3405 and sentence became final on direct appeal, and that:

3406 (i) the rule was dictated by precedent existing at the time the petitioner's conviction or
3407 sentence became final; or

3408 (ii) the rule decriminalizes the conduct that comprises the elements of the crime for
3409 which the petitioner was convicted; or

3410 (h) the petitioner committed any of the following offenses while subject to force, fraud,
3411 or coercion, as defined in Section 76-5-308:

3412 (i) Section 58-37-8, possession of a controlled substance;

3413 (ii) Section 76-10-1304, aiding prostitution;

3414 (iii) Section 76-6-206, criminal trespass;

3415 (iv) Section 76-6-413, theft;

3416 (v) Section 76-6-502, possession of forged writing or device for writing;

3417 (vi) Sections 76-6-602 through 76-6-608, retail theft;

3418 (vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification
3419 document;

3420 (viii) Section 76-9-702, lewdness;

3421 (ix) Section 76-10-1302, prostitution; or

3422 (x) Section 76-10-1313, sexual solicitation.

3423 (2) The court may not grant relief from a conviction or sentence unless in light of the
3424 facts proved in the postconviction proceeding, viewed with the evidence and facts introduced at
3425 trial or during sentencing:

3426 (a) the petitioner establishes that there would be a reasonable likelihood of a more
3427 favorable outcome; or

3428 (b) if the petitioner challenges the conviction or the sentence on grounds that the
3429 prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner
3430 establishes that the false testimony, in any reasonable likelihood, could have affected the
3431 judgment of the fact finder.

3432 (3) (a) The court may not grant relief from a conviction based on a claim that the
3433 petitioner is innocent of the crime for which convicted except as provided in Part 3,
3434 Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

3435 (b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction

3436 Determination of Factual Innocence, of this chapter may not be filed as part of a petition under
3437 this part, but shall be filed separately and in conformity with the provisions of Part 3,
3438 Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

3439 Section 73. **Repealer.**

3440 This bill repeals:

3441 Section **24-1-101**, Title.

3442 Section **24-2-101**, Title.

3443 Section **24-3-101**, Title.

3444 Section **24-4-101**, Title.