

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;
- ▶ recodifies Title 24, Forfeiture and Disposition of Property Act, to Title 77, Chapter 11a, Seizure and Retention of Property and Contraband, and Chapter 11b, Forfeiture of Seized Property;
- ▶ recodifies Title 53, Chapter 20, Forensic Biological Evidence Preservation, to Title 77, Chapter 11a, Seizure and Retention of Property and Contraband;
- ▶ recodifies Title 77, Chapter 24a, Lost or Mislaid Personal Property, to Title 77, Chapter 11c, Lost or Mislaid Property;
- ▶ amends provisions related to the seizure of property and contraband;
- ▶ establishes the requirements for retaining property and contraband as evidence, including the time periods for retention;
- ▶ establishes the requirements for not retaining property and contraband as evidence;
- ▶ establishes the requirements for preserving evidence from property or contraband that is not required to be retained by an agency;
- ▶ provides the procedure for requesting the release or disposal of evidence that an agency determines is not required to be retained by an agency;



- 28 ▶ addresses the retention of property or contraband as an exhibit;
- 29 ▶ addresses the applicability of Title 77, Chapter 11a, Part 3, Retention of Property
- 30 and Contraband as Evidence, and Part 4, Preservation of Biological Evidence for
- 31 Violent Felony Offenses;
- 32 ▶ amends provisions related to the release of property to an owner, interest holder, or
- 33 person who asserts a claim to property that the agency seeks to forfeit;
- 34 ▶ amends provisions related to the disposal of seized property and contraband;
- 35 ▶ amends provisions related to the forfeiture of seized property; 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 **41-6a-606**, as last amended by Laws of Utah 2022, Chapter 176
- 48 **53-5c-201**, as last amended by Laws of Utah 2021, Chapter 137
- 49 **53-5c-202**, as last amended by Laws of Utah 2021, Chapter 137
- 50 **58-37a-6**, as last amended by Laws of Utah 2015, Chapter 258
- 51 **58-37c-15**, as last amended by Laws of Utah 2015, Chapter 258
- 52 **58-37d-7**, as last amended by Laws of Utah 2015, Chapter 258
- 53 **63A-16-1002**, as enacted by Laws of Utah 2022, Chapter 390 and last amended by
- 54 Coordination Clause, Laws of Utah 2022, Chapter 390
- 55 **63I-1-263**, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236,
- 56 249, 274, 296, 313, 361, 362, 417, 419, and 472
- 57 **63J-1-602.1**, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415,
- 58 and 451

- 59 [76-5-109.3](#), as enacted by Laws of Utah 2022, Chapter 181
- 60 [76-6-111](#), as last amended by Laws of Utah 2021, Chapters 57, 260
- 61 [76-6-501](#), as last amended by Laws of Utah 2016, Chapter 117
- 62 [76-6-1303](#), as last amended by Laws of Utah 2015, Chapter 258
- 63 [76-10-503](#), as last amended by Laws of Utah 2021, Chapter 262
- 64 [76-10-1108](#), as last amended by Laws of Utah 2015, Chapter 258
- 65 [76-10-1112](#), as enacted by Laws of Utah 2020, Chapter 291
- 66 [77-37-3](#), as last amended by Laws of Utah 2022, Chapter 430
- 67 [78B-9-104](#), as last amended by Laws of Utah 2022, Chapter 120

68 ENACTS:

- 69 [77-11a-301](#), Utah Code Annotated 1953
- 70 [77-11a-302](#), Utah Code Annotated 1953
- 71 [77-11a-303](#), Utah Code Annotated 1953
- 72 [77-11a-304](#), Utah Code Annotated 1953
- 73 [77-11a-305](#), Utah Code Annotated 1953
- 74 [77-11a-401](#), Utah Code Annotated 1953
- 75 [77-11a-502](#), Utah Code Annotated 1953
- 76 [77-11a-503](#), Utah Code Annotated 1953
- 77 [77-11b-101](#), Utah Code Annotated 1953
- 78 [77-11b-104](#), 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-402**, (Renumbered from 53-20-102, as enacted by Laws of Utah 2022, Chapter
95 120)
96 **77-11a-403**, (Renumbered from 53-20-103, as enacted by Laws of Utah 2022, Chapter
97 120)
98 **77-11a-404**, (Renumbered from 53-20-104, as enacted by Laws of Utah 2022, Chapter
99 120)
100 **77-11a-501**, (Renumbered from 24-2-107, as last amended by Laws of Utah 2022,
101 Chapters 120, 179)
102 **77-11a-504**, (Renumbered from 24-2-108, as last amended by Laws of Utah 2022,
103 Chapters 120, 179)
104 **77-11a-505**, (Renumbered from 24-3-104, as last amended by Laws of Utah 2021,
105 Chapter 230)
106 **77-11a-601**, (Renumbered from 24-3-101.5, as last amended by Laws of Utah 2022,
107 Chapters 120, 274)
108 **77-11a-602**, (Renumbered from 24-3-103, as last amended by Laws of Utah 2021,
109 Chapter 230)
110 **77-11a-603**, (Renumbered from 24-3-103.5, as enacted by Laws of Utah 2017, Chapter
111 334)
112 **77-11b-102**, (Renumbered from 24-4-102, as last amended by Laws of Utah 2022,
113 Chapters 116, 274)
114 **77-11b-103**, (Renumbered from 24-4-106, as enacted by Laws of Utah 2013, Chapter
115 394)
116 **77-11b-105**, (Renumbered from 24-4-119, as enacted by Laws of Utah 2021, Chapter
117 230)
118 **77-11b-201**, (Renumbered from 24-4-103, as last amended by Laws of Utah 2022,
119 Chapter 179)
120 **77-11b-202**, (Renumbered from 24-4-103.3, as last amended by Laws of Utah 2022,

121 Chapter 120)
122 [77-11b-203](#), (Renumbered from 24-4-103.5, as last amended by Laws of Utah 2022,
123 Chapter 120)
124 [77-11b-204](#), (Renumbered from 24-4-111, as last amended by Laws of Utah 2021,
125 Chapter 230)
126 [77-11b-301](#), (Renumbered from 24-4-105, as last amended by Laws of Utah 2022,
127 Chapter 179)
128 [77-11b-302](#), (Renumbered from 24-4-104, as last amended by Laws of Utah 2021,
129 Chapter 230)
130 [77-11b-303](#), (Renumbered from 24-4-113, as last amended by Laws of Utah 2021,
131 Chapter 230)
132 [77-11b-304](#), (Renumbered from 24-4-109, as last amended by Laws of Utah 2021,
133 Chapter 230)
134 [77-11b-305](#), (Renumbered from 24-4-110, as last amended by Laws of Utah 2021,
135 Chapter 230)
136 [77-11b-306](#), (Renumbered from 24-4-112, as last amended by Laws of Utah 2021,
137 Chapter 230)
138 [77-11b-401](#), (Renumbered from 24-4-115, as last amended by Laws of Utah 2022,
139 Chapter 179)
140 [77-11b-402](#), (Renumbered from 24-4-116, as last amended by Laws of Utah 2021,
141 Chapter 230)
142 [77-11b-403](#), (Renumbered from 24-4-117, as last amended by Laws of Utah 2021,
143 Chapter 230)
144 [77-11b-404](#), (Renumbered from 24-4-118, as last amended by Laws of Utah 2022,
145 Chapter 274)
146 [77-11c-101](#), (Renumbered from 77-24a-1, as repealed and reenacted by Laws of Utah
147 2013, Chapter 394)
148 [77-11c-102](#), (Renumbered from 77-24a-2, as last amended by Laws of Utah 2013,
149 Chapter 394)
150 [77-11c-103](#), (Renumbered from 77-24a-3, as last amended by Laws of Utah 2013,
151 Chapter 394)

152 **77-11c-104**, (Renumbered from 77-24a-4, as last amended by Laws of Utah 2013,
153 Chapter 394)

154 **77-11c-105**, (Renumbered from 77-24a-5, as last amended by Laws of Utah 2013,
155 Chapter 394)

156 REPEALS:

157 **24-1-101**, as enacted by Laws of Utah 2013, Chapter 394

158 **24-2-101**, as enacted by Laws of Utah 2013, Chapter 394

159 **24-2-106**, as last amended by Laws of Utah 2022, Chapter 120

160 **24-3-101**, as last amended by Laws of Utah 2021, Chapter 230

161 **24-4-101**, as last amended by Laws of Utah 2021, Chapter 230

162 **53-20-101**, as enacted by Laws of Utah 2022, Chapter 120

163

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

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

166 **13-32a-104. Tickets required to be maintained -- Contents -- Identification of**
167 **items -- Exceptions -- Prohibition against pawning or selling certain property.**

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

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

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

173 (c) the ticket number;

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

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

176 (i) the individual's full name and date of birth as they appear on the individual's
177 identification and the individual's residence address and telephone number;

178 (ii) the unique number and type of identification presented to the pawn or secondhand
179 business;

180 (iii) the individual's signature; and

181 (iv) (A) subject to any rule made under Subsection (8), an electronic or tangible legible
182 fingerprint of the individual's right index finger, or if the right index finger cannot be

183 fingerprinted, a legible fingerprint of the individual with a notation identifying the fingerprint
184 and the reason why the right index fingerprint was unavailable; and

185 (B) notwithstanding the other provisions of this Subsection (1), an electronic legible
186 fingerprint is not required to be documented on the ticket;

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

188 (g) the full name of the individual conducting the pawn transaction or secondhand
189 merchandise transaction on behalf of the pawn or secondhand business or the initials or a
190 unique identifying number of the individual, if the pawn or secondhand business maintains a
191 record of the initials or unique identifying number of the individual; and

192 (h) an accurate description of each article of property, with available identifying marks,
193 including:

194 (i) (A) names, brand names, numbers, serial numbers, model numbers, IMEI numbers,
195 color, manufacturers' names, and size;

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

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

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

199 (E) any other unique identifying feature; and

200 (F) gold content, if indicated; or

201 (ii) if multiple articles of property of a similar nature are delivered together in one
202 transaction and the articles of property do not bear serial or model numbers and do not include
203 precious metals or gemstones, such as musical or video recordings, books, or hand tools, the
204 description of the articles is adequate if it includes the quantity of the articles and a description
205 of the type of articles delivered.

206 (2) (a) A pawn or secondhand business may not accept property if, upon inspection, it
207 is apparent that:

208 (i) a serial number or another form of indicia of ownership has been removed, altered,
209 defaced, or obliterated;

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

213 (iii) except as provided in Subsection [13-32a-103.1\(3\)](#), the property is a gift card,

214 transaction card, or other physical or digital card or certificate evidencing store credit.

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

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

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

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

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

231 (5) An automated recycling kiosk operator is subject to Section [13-32a-104.6](#) and is not
232 subject to this section.

233 (6) A catalytic converter purchaser is subject to Section [13-32a-104.7](#) and is not subject
234 to this section.

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

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

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

240 (i) any jewelry purchased by the pawn or secondhand business, including scrap jewelry
241 and watches; or

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

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

- 245 (i) a color digital photograph clearly and accurately depicting:
246 (A) each item of jewelry; and
247 (B) if an item of jewelry has one or more engravings, an additional color digital
248 photograph specifically depicting any engraving; and
249 (ii) a color digital photograph of an item that bears an identifying mark, including:
250 (A) a serial number, engraving, owner label, or similar identifying mark; and
251 (B) an additional photograph that clearly depicts the identifying mark described in
252 Subsection (9)(b)(ii)(A).

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

254 **13-32a-109. Holding period for property -- Return of property -- Penalty.**

- 255 (1) (a) A pawnbroker may sell property pawned to the pawnbroker if:
256 (i) 15 calendar days have passed after the day on which the pawnbroker submits the
257 information and any required photograph to the central database;
258 (ii) the contract period between the pawnbroker and the pledgor expires; and
259 (iii) the pawnbroker has complied with Sections [13-32a-104](#) and [13-32a-106](#).
260 (b) If property, including scrap jewelry, is purchased by a pawn or secondhand business
261 or catalytic converter purchaser, the pawn or secondhand business or catalytic converter
262 purchaser may sell the property if the pawn or secondhand business or catalytic converter
263 purchaser has held the property for 15 calendar days after the day on which the pawn or
264 secondhand business or catalytic converter purchaser submits the information to the central
265 database, and complied with Sections [13-32a-104](#), [13-32a-104.6](#), [13-32a-104.7](#), and
266 [13-32a-106](#), except that the pawn or secondhand business is not required to hold precious
267 metals or numismatic items under this Subsection (1)(b).
268 (c) (i) This Subsection (1) does not preclude a law enforcement agency from requiring
269 a pawn or secondhand business or catalytic converter purchaser to hold property if necessary in
270 the course of an investigation.
271 (ii) If the property is pawned, the law enforcement agency may require the property be
272 held beyond the terms of the contract between the pledgor and the pawnbroker.
273 (iii) If the property is sold to the pawn or secondhand business or catalytic converter
274 purchaser, the law enforcement agency may require the property be held if the pawn or
275 secondhand business or catalytic converter purchaser has not sold the article.

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

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

284 (a) states the active case number;

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

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

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

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

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

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

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

302 (c) A law enforcement agency may not hold an item for more than the 180 days
303 allowed under Subsections (5)(a) and (b) without obtaining a court order authorizing the hold.

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

306 (7) If an original victim who has complied with Section [13-32a-115](#) has not been

307 identified and the hold or seizure of the property is terminated, the law enforcement agency
308 requiring the hold or seizure shall within 15 business days after the day on which the
309 termination occurs:

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

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

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

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

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

321 (ii) provide the documented information concerning the original victim to the
322 prosecuting agency to determine whether continued possession of the property is necessary for
323 purposes of prosecution[~~as provided in Section 24-3-103~~] under Title 77, Chapter 11a,
324 Seizure and Retention of Property and Contraband.

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

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

333 (ii) The notice shall identify the original victim, advise the pawn or secondhand
334 business or catalytic converter purchaser that the original victim has identified the property,
335 and direct the pawn or secondhand business or catalytic converter purchaser to release the
336 property to the original victim at no cost to the original victim.

337 (iii) If the property was seized, the notice shall advise that the property will be returned

338 to the original victim within 15 days after the day on which the pawn or secondhand business
339 or catalytic converter purchaser receives the notice, except as provided under Subsection (8)(d).

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

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

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

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

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

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

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

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

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

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

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

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

368 **13-32a-116.5. Contested disposition of property - Procedure.**

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

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

379 (b) the pawn or secondhand business or catalytic converter purchaser files a petition in
380 a court having jurisdiction over the matter to determine rightful ownership of the property as
381 provided in Section [~~24-3-104~~] 77-11a-505.

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

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

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

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

389 **17-18a-405. Civil responsibilities of public prosecutors.**

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

392 (1) bail bond forfeiture actions;

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

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

399 (4) any other civil duties related to criminal prosecution that are otherwise provided by

400 statute.

401 Section 5. Section **41-6a-606** is amended to read:

402 **41-6a-606. Speed contest or exhibition on highway -- Barricade or obstruction --**
403 **-- Spectators of a speed contest -- Seizure of non-street legal vehicles.**

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

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

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

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

411 (4) (a) In addition to the penalty provided under this section or any other section, a
412 person who violates Subsection (1) shall have the person's driver license suspended under
413 Subsection [53-3-220\(1\)\(a\)\(xv\)](#) for a period of:

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

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

416 (b) The court shall forward the report of the conviction to the Driver License Division
417 in accordance with Section [53-3-218](#).

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

421 Section 6. Section **53-5c-201** is amended to read:

422 **53-5c-201. Voluntary commitment of a firearm by cohabitant -- Law enforcement**
423 **to hold firearm.**

424 (1) As used in this section:

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

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

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

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

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

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

- 431 (i) in relation to a cohabitant as described in Subsection (1)(a); and
432 (ii) who owns a firearm.
- 433 (2) (a) A cohabitant or owner cohabitant may voluntarily commit a firearm to a law
434 enforcement agency or request that a law enforcement officer receive a firearm for safekeeping
435 if the owner cohabitant or cohabitant believes that the owner cohabitant or another cohabitant
436 with access to the firearm is an immediate threat to:
- 437 (i) himself or herself;
438 (ii) the owner cohabitant; or
439 (iii) any other person.
- 440 (b) If the owner of a firearm requests return of the firearm in person at the law
441 enforcement agency's office, the law enforcement agency:
- 442 (i) may not hold the firearm under this section; and
443 (ii) shall return the firearm to the owner.
- 444 (3) Unless a firearm is an illegal firearm subject to Section [53-5c-202](#), a law
445 enforcement agency that receives a firearm in accordance with this chapter shall:
- 446 (a) record:
- 447 (i) the owner cohabitant's name, address, and phone number;
448 (ii) the firearm serial number and the make and model of each firearm committed; and
449 (iii) the date that the firearm was voluntarily committed;
- 450 (b) require the cohabitant to sign a document attesting that the cohabitant resides in the
451 home;
- 452 (c) hold the firearm in safe custody for 60 days after the day on which the firearm is
453 voluntarily committed; and
- 454 (d) upon proof of identification, return the firearm to:
- 455 (i) (A) the owner cohabitant after the expiration of the 60-day period; or
456 (B) if the owner cohabitant requests return of the firearm before the expiration of the
457 60-day period, at the time of the request; or
- 458 (ii) an owner other than the owner cohabitant in accordance with Section [53-5c-202](#).
- 459 (4) The law enforcement agency shall hold the firearm for an additional 60 days:
- 460 (a) if the initial 60-day period expires; and
461 (b) the cohabitant or owner cohabitant requests that the law enforcement agency hold

462 the firearm for an additional 60 days.

463 (5) A law enforcement agency may not request or require that the owner cohabitant
464 provide the name or other information of the cohabitant who poses an immediate threat or any
465 other cohabitant.

466 (6) Notwithstanding an ordinance or policy to the contrary adopted in accordance with
467 Section [63G-2-701](#), a law enforcement agency shall destroy a record created under Subsection
468 (3), Subsection [53-5c-202\(3\)\(b\)\(iii\)](#), or any other record created in the application of this
469 chapter immediately, if practicable, but no later than five days after immediately upon the:

470 (a) return of a firearm in accordance with Subsection (3)(d); or

471 (b) disposal of the firearm in accordance with Section [53-5c-202](#).

472 (7) Unless otherwise provided, the provisions of [~~Title 77, Chapter 24a, Lost or~~
473 ~~Mislaidd Personal Property~~] Title 77, Chapter 11c, Lost or Mislaidd Property, do not apply to a
474 firearm received by a law enforcement agency in accordance with this chapter.

475 (8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held
476 in accordance with this chapter.

477 Section 7. Section **53-5c-202** is amended to read:

478 **53-5c-202. Illegal firearms confiscated -- Disposition of unclaimed firearm.**

479 (1) If a law enforcement agency receives a firearm in accordance with Section
480 [53-5c-201](#), and the firearm is an illegal firearm, the law enforcement agency shall:

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

483 (b) confiscate the firearm and dispose of the firearm in accordance with Section
484 [~~24-3-103.5~~] [77-11a-603](#).

485 (2) (a) If a law enforcement agency cannot, after a reasonable attempt, locate an owner
486 cohabitant to return a firearm in accordance with Section [53-5c-201](#), the law enforcement
487 agency shall dispose of the firearm in accordance with Section [~~24-3-103.5~~] [77-11a-603](#).

488 (b) A law enforcement agency may not dispose of a firearm under Subsection (2)(a)
489 before one year after the day on which the cohabitant initially voluntarily committed the
490 firearm in accordance with Section [53-5c-201](#).

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

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

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

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

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

499 (ii) the person provides identification; and

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

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

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

505 (ii) disposed of in accordance with Section [~~24-3-103.5~~] 77-11a-603.

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

508 Section 8. Section 58-37a-6 is amended to read:

509 **58-37a-6. Seizure -- Forfeiture -- Property rights.**

510 Drug paraphernalia is subject to seizure and forfeiture in accordance with the
511 procedures and substantive protections of [~~Title 24, Forfeiture and Disposition of Property Act~~]
512 Title 77, Chapter 11a, Seizure and Retention of Property and Contraband, and Chapter 11b,
513 Forfeiture of Seized Property.

514 Section 9. Section 58-37c-15 is amended to read:

515 **58-37c-15. Civil forfeiture.**

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

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

522 (2) all property used by any person to facilitate, aid, or otherwise cause the unlawful
523 distribution, transfer, possession, or intent to distribute, transfer, or possess a listed controlled

524 substance precursor chemical in violation of any felony provision of this chapter.

525 Section 10. Section **58-37d-7** is amended to read:

526 **58-37d-7. Seizure and forfeiture.**

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

532 Section 11. Section **63A-16-1002** is amended to read:

533 **63A-16-1002. Criminal Justice Database.**

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

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

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

539 (a) master standards and formats for information submitted to the database;

540 (b) a portal, bridge, website, or other method for reporting entities to provide the
541 information;

542 (c) a master data management index or system to assist in the retrieval of information
543 in the database;

544 (d) a protocol for accessing information in the database that complies with state
545 privacy regulations; and

546 (e) a protocol for real-time audit capability of all data accessed through the portal by
547 participating data source, data use entities, and regulators.

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

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

551 (a) Section [13-53-111](#), recidivism reporting requirements;

552 (b) Section [17-22-32](#), county jail reporting requirements;

553 (c) Section [17-55-201](#), Criminal Justice Coordinating Councils reporting;

554 (d) Section [~~24-4-118~~] [77-11b-404](#), forfeiture reporting requirements;

- 555 (e) Section 41-6a-511, courts to collect and maintain data;
556 (f) Section 63M-7-214, law enforcement agency grant reporting;
557 (g) Section 63M-7-216, prosecutorial data collection;
558 (h) Section 64-13-21, supervision of sentenced offenders placed in community;
559 (i) Section 64-13-25, standards for programs;
560 (j) Section 64-13-45, department reporting requirements;
561 (k) Section 64-13e-104, housing of state probationary inmates or state parole inmates;
562 (l) Section 77-7-8.5, use of tactical groups;
563 (m) Section 77-20-103, release data requirements;
564 (n) Section 77-22-2.5, court orders for criminal investigations;
565 (o) Section 78A-2-109.5, court demographics reporting; and
566 (p) any other statutes which require the collection of specific data and the reporting of
567 that data to the commission.

568 (6) The commission shall report:

- 569 (a) progress on the database, including creation, configuration, and data entered, to the
570 Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and
571 (b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal
572 Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing
573 Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing
574 Committee not later than January 16, 2023.

575 Section 12. Section 63I-1-263 is amended to read:

576 **63I-1-263. Repeal dates: Titles 63A to 63N.**

- 577 (1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital
578 improvement funding, is repealed July 1, 2024.
579 (2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1,
580 2023.
581 (3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review
582 Committee, are repealed July 1, 2023.
583 (4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:
584 (a) Section 63A-18-102 is repealed;
585 (b) Section 63A-18-201 is repealed; and

- 586 (c) Section [63A-18-202](#) is repealed.
- 587 (5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
588 1, 2028.
- 589 (6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
590 2025.
- 591 (7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,
592 2024.
- 593 (8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
594 repealed July 1, 2023.
- 595 (9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed
596 July 1, 2023.
- 597 (10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is
598 repealed July 1, 2026.
- 599 (11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.
- 600 (12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.
- 601 (13) Section [63G-6a-805](#), which creates the Purchasing from Persons with Disabilities
602 Advisory Board, is repealed July 1, 2026.
- 603 (14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
604 2028.
- 605 (15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
606 2024.
- 607 (16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.
- 608 (17) Subsection [~~[63J-1-602.1\(17\)](#)~~] [63J-1-602.1\(16\)](#), relating to the Nurse Home
609 Visiting Restricted Account, is repealed July 1, 2026.
- 610 (18) Subsection [63J-1-602.2\(6\)](#), referring to dedicated credits to the Utah Marriage
611 Commission, is repealed July 1, 2023.
- 612 (19) Subsection [63J-1-602.2\(7\)](#), referring to the Trip Reduction Program, is repealed
613 July 1, 2022.
- 614 (20) Subsection [63J-1-602.2\(26\)](#), related to the Utah Seismic Safety Commission, is
615 repealed January 1, 2025.
- 616 (21) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is

617 repealed July 1, 2027.

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

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

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

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

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

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

627 "(2) The commission shall:

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

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

632 (23) The Crime Victim Reparations and Assistance Board, created in Section
633 [63M-7-504](#), is repealed July 1, 2027.

634 (24) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

635 (25) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed
636 January 1, 2025.

637 (26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

638 (27) Section [63N-2-512](#), related to the Hotel Impact Mitigation Fund, is repealed July
639 1, 2028.

640 (28) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed
641 July 1, 2027.

642 (29) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is
643 repealed July 1, 2025.

644 (30) In relation to the Rural Employment Expansion Program, on July 1, 2023:

645 (a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed;
646 and

647 (b) Subsection [63N-4-805](#)(5)(b), referring to the Rural Employment Expansion

648 Program, is repealed.

649 (31) In relation to the Board of Tourism Development, on July 1, 2025:

650 (a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

651 (b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is
652 repealed and replaced with "Utah Office of Tourism";

653 (c) Subsection 63N-7-101(1), which defines "board," is repealed;

654 (d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive
655 approval from the Board of Tourism Development, is repealed; and

656 (e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

657 (32) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic
658 Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed
659 on July 1, 2024.

660 Section 13. Section 63J-1-602.1 is amended to read:

661 **63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**

662 Appropriations made from the following accounts or funds are nonlapsing:

663 (1) The Utah Intracurricular Student Organization Support for Agricultural Education
664 and Leadership Restricted Account created in Section 4-42-102.

665 (2) The Native American Repatriation Restricted Account created in Section 9-9-407.

666 (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in
667 Section 9-18-102.

668 (4) The National Professional Men's Soccer Team Support of Building Communities
669 Restricted Account created in Section 9-19-102.

670 (5) Funds collected for directing and administering the C-PACE district created in
671 Section 11-42a-106.

672 (6) Money received by the Utah Inland Port Authority, as provided in Section
673 11-58-105.

674 (7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

675 (8) The Clean Air Support Restricted Account created in Section 19-1-109.

676 (9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in
677 Section 19-2a-106.

678 (10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in

679 Section [19-5-126](#).

680 (11) The "Support for State-Owned Shooting Ranges Restricted Account" created in
681 Section [23-14-13.5](#).

682 [~~(12)~~ Award money under the State Asset Forfeiture Grant Program, as provided under
683 Section [24-4-117](#).]

684 [~~(13)~~ (12) Funds collected from the program fund for local health department
685 expenses incurred in responding to a local health emergency under Section [26-1-38](#).

686 [~~(14)~~ (13) The Children with Cancer Support Restricted Account created in Section
687 [26-21a-304](#).

688 [~~(15)~~ (14) State funds for matching federal funds in the Children's Health Insurance
689 Program as provided in Section [26-40-108](#).

690 [~~(16)~~ (15) The Children with Heart Disease Support Restricted Account created in
691 Section [26-58-102](#).

692 [~~(17)~~ (16) The Technology Development Restricted Account created in Section
693 [31A-3-104](#).

694 [~~(18)~~ (17) The Criminal Background Check Restricted Account created in Section
695 [31A-3-105](#).

696 [~~(19)~~ (18) The Captive Insurance Restricted Account created in Section [31A-3-304](#),
697 except to the extent that Section [31A-3-304](#) makes the money received under that section free
698 revenue.

699 [~~(20)~~ (19) The Title Licensee Enforcement Restricted Account created in Section
700 [31A-23a-415](#).

701 [~~(21)~~ (20) The Health Insurance Actuarial Review Restricted Account created in
702 Section [31A-30-115](#).

703 [~~(22)~~ (21) The Insurance Fraud Investigation Restricted Account created in Section
704 [31A-31-108](#).

705 [~~(23)~~ (22) The Underage Drinking Prevention Media and Education Campaign
706 Restricted Account created in Section [32B-2-306](#).

707 [~~(24)~~ (23) The Drinking While Pregnant Prevention Media and Education Campaign
708 Restricted Account created in Section [32B-2-308](#).

709 [~~(25)~~ (24) The School Readiness Restricted Account created in Section [35A-15-203](#).

710 [~~(26)~~] (25) Money received by the Utah State Office of Rehabilitation for the sale of
711 certain products or services, as provided in Section [35A-13-202](#).

712 [~~(27)~~] (26) The Oil and Gas Administrative Penalties Account created in Section
713 [40-6-11](#).

714 [~~(28)~~] (27) The Oil and Gas Conservation Account created in Section [40-6-14.5](#).

715 [~~(29)~~] (28) The Division of Oil, Gas, and Mining Restricted account created in Section
716 [40-6-23](#).

717 [~~(30)~~] (29) The Electronic Payment Fee Restricted Account created by Section
718 [41-1a-121](#) to the Motor Vehicle Division.

719 [~~(31)~~] (30) The Motor Vehicle Enforcement Division Temporary Permit Restricted
720 Account created by Section [41-3-110](#) to the State Tax Commission.

721 [~~(32)~~] (31) The Utah Law Enforcement Memorial Support Restricted Account created
722 in Section [53-1-120](#).

723 [~~(33)~~] (32) The State Disaster Recovery Restricted Account to the Division of
724 Emergency Management, as provided in Section [53-2a-603](#).

725 [~~(34)~~] (33) The Post Disaster Recovery and Mitigation Restricted Account created in
726 Section [53-2a-1302](#).

727 [~~(35)~~] (34) The Department of Public Safety Restricted Account to the Department of
728 Public Safety, as provided in Section [53-3-106](#).

729 [~~(36)~~] (35) The Utah Highway Patrol Aero Bureau Restricted Account created in
730 Section [53-8-303](#).

731 [~~(37)~~] (36) The DNA Specimen Restricted Account created in Section [53-10-407](#).

732 [~~(38)~~] (37) The Canine Body Armor Restricted Account created in Section [53-16-201](#).

733 [~~(39)~~] (38) The Technical Colleges Capital Projects Fund created in Section
734 [53B-2a-118](#).

735 [~~(40)~~] (39) The Higher Education Capital Projects Fund created in Section
736 [53B-22-202](#).

737 [~~(41)~~] (40) A certain portion of money collected for administrative costs under the
738 School Institutional Trust Lands Management Act, as provided under Section [53C-3-202](#).

739 [~~(42)~~] (41) The Public Utility Regulatory Restricted Account created in Section
740 [54-5-1.5](#), subject to Subsection [54-5-1.5\(4\)\(d\)](#).

741 [~~(43)~~] (42) Funds collected from a surcharge fee to provide certain licensees with
742 access to an electronic reference library, as provided in Section 58-3a-105.

743 [~~(44)~~] (43) Certain fines collected by the Division of Professional Licensing for
744 violation of unlawful or unprofessional conduct that are used for education and enforcement
745 purposes, as provided in Section 58-17b-505.

746 [~~(45)~~] (44) Funds collected from a surcharge fee to provide certain licensees with
747 access to an electronic reference library, as provided in Section 58-22-104.

748 [~~(46)~~] (45) Funds collected from a surcharge fee to provide certain licensees with
749 access to an electronic reference library, as provided in Section 58-55-106.

750 [~~(47)~~] (46) Funds collected from a surcharge fee to provide certain licensees with
751 access to an electronic reference library, as provided in Section 58-56-3.5.

752 [~~(48)~~] (47) Certain fines collected by the Division of Professional Licensing for use in
753 education and enforcement of the Security Personnel Licensing Act, as provided in Section
754 58-63-103.

755 [~~(49)~~] (48) The Relative Value Study Restricted Account created in Section 59-9-105.

756 [~~(50)~~] (49) The Cigarette Tax Restricted Account created in Section 59-14-204.

757 [~~(51)~~] (50) Funds paid to the Division of Real Estate for the cost of a criminal
758 background check for a mortgage loan license, as provided in Section 61-2c-202.

759 [~~(52)~~] (51) Funds paid to the Division of Real Estate for the cost of a criminal
760 background check for principal broker, associate broker, and sales agent licenses, as provided
761 in Section 61-2f-204.

762 [~~(53)~~] (52) Certain funds donated to the Department of Health and Human Services, as
763 provided in Section 26B-1-202.

764 [~~(54)~~] (53) The National Professional Men's Basketball Team Support of Women and
765 Children Issues Restricted Account created in Section 26B-1-302.

766 [~~(55)~~] (54) Certain funds donated to the Division of Child and Family Services, as
767 provided in Section 80-2-404.

768 [~~(56)~~] (55) The Choose Life Adoption Support Restricted Account created in Section
769 80-2-502.

770 [~~(57)~~] (56) Funds collected by the Office of Administrative Rules for publishing, as
771 provided in Section 63G-3-402.

772 ~~[(58)]~~ (57) The Immigration Act Restricted Account created in Section [63G-12-103](#).

773 ~~[(59)]~~ (58) Money received by the military installation development authority, as
774 provided in Section [63H-1-504](#).

775 ~~[(60)]~~ (59) The Computer Aided Dispatch Restricted Account created in Section
776 [63H-7a-303](#).

777 ~~[(61)]~~ (60) The Unified Statewide 911 Emergency Service Account created in Section
778 [63H-7a-304](#).

779 ~~[(62)]~~ (61) The Utah Statewide Radio System Restricted Account created in Section
780 [63H-7a-403](#).

781 ~~[(63)]~~ (62) The Utah Capital Investment Restricted Account created in Section
782 [63N-6-204](#).

783 ~~[(64)]~~ (63) The Motion Picture Incentive Account created in Section [63N-8-103](#).

784 ~~[(65)]~~ (64) Certain money payable for expenses of the Pete Suazo Utah Athletic
785 Commission, as provided under Section [63N-10-301](#).

786 ~~[(66)]~~ (65) Funds collected by the housing of state probationary inmates or state parole
787 inmates, as provided in Subsection [64-13e-104\(2\)](#).

788 ~~[(67)]~~ (66) Certain forestry and fire control funds utilized by the Division of Forestry,
789 Fire, and State Lands, as provided in Section [65A-8-103](#).

790 ~~[(68)]~~ (67) The Amusement Ride Safety Restricted Account, as provided in Section
791 [72-16-204](#).

792 ~~[(69)]~~ (68) Certain funds received by the Office of the State Engineer for well drilling
793 fines or bonds, as provided in Section [73-3-25](#).

794 ~~[(70)]~~ (69) The Water Resources Conservation and Development Fund, as provided in
795 Section [73-23-2](#).

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

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

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

801 (73) Funds collected for adoption document access as provided in Sections [78B-6-141](#),
802 [78B-6-144](#), and [78B-6-144.5](#).

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

805 (75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in
806 Section 79-3-403.

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

809 (77) Funds donated as described in Section 41-1a-422 for the State Park Fees
810 Restricted Account created in Section 79-4-402 for support of the Division of State Parks' dark
811 sky initiative.

812 (78) Certain funds received by the Division of State Parks from the sale or disposal of
813 buffalo, as provided under Section 79-4-1001.

814 Section 14. Section 76-5-109.3 is amended to read:

815 **76-5-109.3. Child abandonment.**

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

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

818 (ii) "Enterprise" means the same as that term is defined in Section 76-10-1602.

819 (iii) "Serious physical injury" means the same as that term is defined in Section
820 76-5-109.

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

822 (2) (a) Except as provided in Subsection (4), an actor commits child abandonment if
823 the actor:

824 (i) is a parent or legal guardian of a child, and:

825 (A) intentionally ceases to maintain physical custody of the child;

826 (B) intentionally fails to make reasonable arrangements for the safety, care, and
827 physical custody of the child; and

828 (C) (I) intentionally fails to provide the child with food, shelter, or clothing;

829 (II) manifests an intent to permanently not resume physical custody of the child; or

830 (III) for a period of at least 30 days, intentionally fails to resume physical custody of
831 the child and fails to manifest a genuine intent to resume physical custody of the child; or

832 (ii) encourages or causes the parent or legal guardian of a child to violate Subsection

833 (2)(a)(i).

834 (b) Except as provided in Subsection (4), an enterprise commits child abandonment if
835 the enterprise encourages, commands, or causes another to violate Subsection (2)(a).

836 (3) (a) (i) A violation of Subsection (2) is a third degree felony.

837 (ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2) is a second
838 degree felony if, as a result of the child abandonment:

839 (A) the child suffers a serious physical injury; or

840 (B) the actor or enterprise receives, directly or indirectly, any benefit.

841 (b) (i) In addition to the penalty described in Subsection (3)(a)(ii), the court may order
842 the actor or enterprise described in Subsection (3)(a)(ii)(B) to pay the costs of investigating and
843 prosecuting the offense and the costs of securing any forfeiture provided for under Subsection
844 (3)(b)(ii).

845 (ii) Any tangible or pecuniary benefit received under Subsection (3)(a)(ii)(B) is subject
846 to criminal or civil forfeiture pursuant to [~~Title 24, Forfeiture and Disposition of Property Act~~]
847 Title 77, Chapter 11b, Forfeiture of Seized Property.

848 (4) (a) A parent or legal guardian who provides a child with treatment by spiritual
849 means alone through prayer, in lieu of medical treatment, in accordance with the tenets and
850 practices of an established church or religious denomination of which the parent or legal
851 guardian is a member or adherent may not, for that reason alone, be considered to have
852 committed an offense under this section.

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

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

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

856 (A) in a legal adoption proceeding; or

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

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

860 or

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

862 Section 15. Section **76-6-111** is amended to read:

863 **76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria --**
864 **Seizure and disposition of property.**

865 (1) As used in this section:

866 (a) "Law enforcement officer" means the same as that term is defined in Section
867 [53-13-103](#).

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

870 (i) cattle;

871 (ii) sheep;

872 (iii) goats;

873 (iv) swine;

874 (v) horses;

875 (vi) mules;

876 (vii) poultry;

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

878 (ix) livestock guardian dogs.

879 (c) "Livestock guardian dog" means a dog that is being used to live with and guard
880 livestock, other than itself, from predators.

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

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

884 (b) does so:

885 (i) intentionally or knowingly; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

917 (A) a search warrant; or

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

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

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

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

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

- 927 (i) place the property under seal;
- 928 (ii) remove the property to a place designated by the warrant under which it was seized;
- 929 or
- 930 (iii) take custody of the property and remove it to an appropriate location for
- 931 disposition in accordance with law.

932 Section 16. Section **76-6-501** is amended to read:

933 **76-6-501. Forgery and producing false identification -- Elements of offense --**

934 **Definitions.**

935 (1) As used in this part:

936 (a) "Authentication feature" means any hologram, watermark, certification, symbol,

937 code, image, sequence of numbers or letters, or other feature that either individually or in

938 combination with another feature is used by the issuing authority on an identification

939 document, document-making implement, or means of identification to determine if the

940 document is counterfeit, altered, or otherwise falsified.

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

942 computer file, computer disc, electronic device, computer hardware or software, or scanning

943 printing, or laminating equipment that is specifically configured or primarily used for making

944 an identification document, a false identification document, or another document-making

945 implement.

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

947 (i) is genuine in origin but that, without the authorization of the issuing authority, has

948 been tampered with or altered for purposes of deceit;

949 (ii) is genuine, but has been distributed, or is intended for distribution, without the

950 authorization of the issuing authority and not in connection with a lawfully made identification

951 document, document-making implement, or means of identification to which the authentication

952 feature is intended to be affixed or embedded by the issuing authority; or

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

954 (d) "False identification document" means a document of a type intended or commonly

955 accepted for the purposes of identification of individuals, and that:

956 (i) is not issued by or under the authority of a governmental entity or was issued under

957 the authority of a governmental entity but was subsequently altered for purposes of deceit; and

- 958 (ii) appears to be issued by or under the authority of a governmental entity.
- 959 (e) "Governmental entity" means the United States government, a state, a political
960 subdivision of a state, a foreign government, a political subdivision of a foreign government, an
961 international governmental organization, or a quasi-governmental organization.
- 962 (f) "Identification document" means a document made or issued by or under the
963 authority of a governmental entity, which, when completed with information concerning a
964 particular individual, is of a type intended or commonly accepted for the purpose of
965 identification of individuals.
- 966 (g) "Issuing authority" means:
 - 967 (i) any governmental entity that is authorized to issue identification documents, means
968 of identification, or authentication features; or
 - 969 (ii) a business organization or financial institution or its agent that issues a financial
970 transaction card as defined in Section [76-6-506](#).
- 971 (h) "Means of identification" means any name or number that may be used, alone or in
972 conjunction with any other information, to identify a specific individual, including:
 - 973 (i) name, social security number, date of birth, government issued driver license or
974 identification number, alien registration number, government passport number, or employer or
975 taxpayer identification number;
 - 976 (ii) unique biometric data, such as fingerprint, voice print, retina or iris image, or other
977 unique physical representation; or
 - 978 (iii) unique electronic identification number, address, or routing code.
- 979 (i) "Personal identification card" means an identification document issued by a
980 governmental entity solely for the purpose of identification of an individual.
- 981 (j) "Produce" includes altering, authenticating, or assembling.
- 982 (k) "State" includes any state of the United States, the District of Columbia, the
983 Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the
984 United States.
- 985 (l) "Traffic" means to:
 - 986 (i) transport, transfer, or otherwise dispose of an item to another, as consideration for
987 anything of value; or
 - 988 (ii) make or obtain control of with intent to transport, transfer, or otherwise dispose of

989 an item to another.

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

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

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

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

999 (2) A person is guilty of forgery if, with purpose to defraud anyone, or with knowledge
1000 that the person is facilitating a fraud to be perpetrated by anyone, the person:

1001 (a) alters any writing of another without his authority or utters the altered writing; or

1002 (b) makes, completes, executes, authenticates, issues, transfers, publishes, or utters any
1003 writing so that the writing or the making, completion, execution, authentication, issuance,
1004 transference, publication, or utterance:

1005 (i) purports to be the act of another, whether the person is existent or nonexistent;

1006 (ii) purports to be an act on behalf of another party with the authority of that other
1007 party; or

1008 (iii) purports to have been executed at a time or place or in a numbered sequence other
1009 than was in fact the case, or to be a copy of an original when an original did not exist.

1010 (3) It is not a defense to a charge of forgery under Subsection (2)(b)(ii) if an actor signs
1011 his own name to the writing if the actor does not have authority to make, complete, execute,
1012 authenticate, issue, transfer, publish, or utter the writing on behalf of the party for whom the
1013 actor purports to act.

1014 (4) A person is guilty of producing or transferring any false identification document
1015 who:

1016 (a) knowingly and without lawful authority produces, attempts, or conspires to produce
1017 an identification document, authentication feature, or a false identification document that is or
1018 appears to be issued by or under the authority of an issuing authority;

1019 (b) transfers, or possesses with intent to transfer, an identification document,

1020 authentication feature, or a false identification document knowing that the document or feature
1021 was stolen or produced without lawful authority;

1022 (c) produces, transfers, or possesses a document-making implement or authentication
1023 feature with the intent that the document-making implement or the authentication feature be
1024 used in the production of a false identification document or another document-making
1025 implement or authentication feature; or

1026 (d) traffics in false or actual authentication features for use in false identification
1027 documents, document-making implements, or means of identification.

1028 (5) A person who violates:

1029 (a) Subsection (2) is guilty of a third degree felony; and

1030 (b) Subsection (4) is guilty of a second degree felony.

1031 (6) This part may not be construed to impose criminal or civil liability on any law
1032 enforcement officer acting within the scope of a criminal investigation.

1033 (7) The forfeiture of property under this part, including any seizure and disposition of
1034 the property and any related judicial or administrative proceeding, shall be conducted in
1035 accordance with [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77, Chapter 11b,
1036 Forfeiture of Seized Property.

1037 (8) The court shall order, in addition to the penalty prescribed for any person convicted
1038 of a violation of this section, the forfeiture and destruction or other disposition of all illicit
1039 authentication features, identification documents, false transaction cards, document-making
1040 implements, or means of identification.

1041 Section 17. Section **76-6-1303** is amended to read:

1042 **76-6-1303. Possession, sale, or use of automated sales suppression device unlawful**
1043 **-- Penalties.**

1044 (1) It is a third degree felony to willfully or knowingly sell, purchase, install, transfer,
1045 use, or possess in this state any automated sales suppression device or phantomware with the
1046 intent to defraud, except that any second or subsequent violation of this Subsection (1) is a
1047 second degree felony.

1048 (2) Notwithstanding Section **76-3-301**, any person convicted of violating Subsection
1049 (1) may be fined not more than twice the amount of the applicable taxes that would otherwise
1050 be due, but for the use of the automated sales suppression device or phantomware.

- 1051 (3) Any person convicted of a violation of Subsection (1):
- 1052 (a) is liable for all applicable taxes, penalties under Section 59-1-401, and interest
- 1053 under Section 59-1-402 that would otherwise be due, but for the use of the automated sales
- 1054 suppression device or phantomware to evade the payment of taxes; and
- 1055 (b) shall disgorge all profits associated with the sale or use of an automated sales
- 1056 suppression device or phantomware.
- 1057 (4) An automated sales suppression device and any device containing an automated
- 1058 sales suppression device is contraband and subject to forfeiture under [~~Title 24, Forfeiture and~~
- 1059 ~~Disposition of Property Act~~] Title 77, Chapter 11b, Forfeiture of Seized Property.
- 1060 Section 18. Section 76-10-503 is amended to read:
- 1061 **76-10-503. Restrictions on possession, purchase, transfer, and ownership of**
- 1062 **dangerous weapons by certain persons -- Exceptions.**
- 1063 (1) For purposes of this section:
- 1064 (a) A Category I restricted person is a person who:
- 1065 (i) has been convicted of any violent felony as defined in Section 76-3-203.5;
- 1066 (ii) is on probation or parole for any felony;
- 1067 (iii) is on parole from secure care, as defined in Section 80-1-102;
- 1068 (iv) within the last 10 years has been adjudicated under Section 80-6-701 for an offense
- 1069 which if committed by an adult would have been a violent felony as defined in Section
- 1070 76-3-203.5;
- 1071 (v) is an alien who is illegally or unlawfully in the United States; or
- 1072 (vi) is on probation for a conviction of possessing:
- 1073 (A) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;
- 1074 (B) a controlled substance analog; or
- 1075 (C) a substance listed in Section 58-37-4.2.
- 1076 (b) A Category II restricted person is a person who:
- 1077 (i) has been convicted of any felony;
- 1078 (ii) within the last seven years has been adjudicated delinquent for an offense which if
- 1079 committed by an adult would have been a felony;
- 1080 (iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;
- 1081 (iv) is in possession of a dangerous weapon and is knowingly and intentionally in

1082 unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;
1083 (v) has been found not guilty by reason of insanity for a felony offense;
1084 (vi) has been found mentally incompetent to stand trial for a felony offense;
1085 (vii) has been adjudicated as mentally defective as provided in the Brady Handgun
1086 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed
1087 to a mental institution;
1088 (viii) has been dishonorably discharged from the armed forces;
1089 (ix) has renounced the individual's citizenship after having been a citizen of the United
1090 States;
1091 (x) is a respondent or defendant subject to a protective order or child protective order
1092 that is issued after a hearing for which the respondent or defendant received actual notice and at
1093 which the respondent or defendant has an opportunity to participate, that restrains the
1094 respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that
1095 would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate
1096 partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate
1097 partner, and that:
1098 (A) includes a finding that the respondent or defendant represents a credible threat to
1099 the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C.
1100 Sec. 921 or the child of the individual; or
1101 (B) explicitly prohibits the use, attempted use, or threatened use of physical force that
1102 would reasonably be expected to cause bodily harm against an intimate partner or the child of
1103 an intimate partner; or
1104 (xi) has been convicted of the commission or attempted commission of assault under
1105 Section 76-5-102 or aggravated assault under Section 76-5-103 against a current or former
1106 spouse, parent, guardian, individual with whom the restricted person shares a child in common,
1107 individual who is cohabitating or has cohabitated with the restricted person as a spouse, parent,
1108 or guardian, or against an individual similarly situated to a spouse, parent, or guardian of the
1109 restricted person.
1110 (c) As used in this section, a conviction of a felony or adjudication of delinquency for
1111 an offense which would be a felony if committed by an adult does not include:
1112 (i) a conviction or an adjudication under Section 80-6-701 for an offense pertaining to

1113 antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to
1114 the regulation of business practices not involving theft or fraud; or

1115 (ii) a conviction or an adjudication under Section 80-6-701 which, according to the law
1116 of the jurisdiction in which it occurred, has been expunged, set aside, reduced to a
1117 misdemeanor by court order, pardoned or regarding which the person's civil rights have been
1118 restored unless the pardon, reduction, expungement, or restoration of civil rights expressly
1119 provides that the person may not ship, transport, possess, or receive firearms.

1120 (d) It is the burden of the defendant in a criminal case to provide evidence that a
1121 conviction or an adjudication under Section 80-6-701 is subject to an exception provided in
1122 Subsection (1)(c), after which it is the burden of the state to prove beyond a reasonable doubt
1123 that the conviction or the adjudication is not subject to that exception.

1124 (2) A Category I restricted person who intentionally or knowingly agrees, consents,
1125 offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or
1126 control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under
1127 the person's custody or control:

1128 (a) any firearm is guilty of a second degree felony; or

1129 (b) any dangerous weapon other than a firearm is guilty of a third degree felony.

1130 (3) A Category II restricted person who intentionally or knowingly purchases, transfers,
1131 possesses, uses, or has under the person's custody or control:

1132 (a) any firearm is guilty of a third degree felony; or

1133 (b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

1134 (4) A person may be subject to the restrictions of both categories at the same time.

1135 (5) If a higher penalty than is prescribed in this section is provided in another section
1136 for one who purchases, transfers, possesses, uses, or has under this custody or control any
1137 dangerous weapon, the penalties of that section control.

1138 (6) It is an affirmative defense to a charge based on the definition in Subsection
1139 (1)(b)(iv) that the person was:

1140 (a) in possession of a controlled substance pursuant to a lawful order of a practitioner
1141 for use of a member of the person's household or for administration to an animal owned by the
1142 person or a member of the person's household; or

1143 (b) otherwise authorized by law to possess the substance.

1144 (7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon
1145 by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

1146 (i) was possessed by the person or was under the person's custody or control before the
1147 person became a restricted person;

1148 (ii) was not used in or possessed during the commission of a crime or subject to
1149 disposition under [~~Section 24-3-103~~] Title 77, Chapter 11a, Part 6, Disposal of Seized Property
1150 and Contraband;

1151 (iii) is not being held as evidence by a court or law enforcement agency;

1152 (iv) was transferred to a person not legally prohibited from possessing the weapon; and

1153 (v) unless a different time is ordered by the court, was transferred within 10 days of the
1154 person becoming a restricted person.

1155 (b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person
1156 of a firearm or other dangerous weapon by a restricted person.

1157 (8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or
1158 dangerous weapon to any person, knowing that the recipient is a person described in
1159 Subsection (1)(a) or (b).

1160 (b) A person who violates Subsection (8)(a) when the recipient is:

1161 (i) a person described in Subsection (1)(a) and the transaction involves a firearm, is
1162 guilty of a second degree felony;

1163 (ii) a person described in Subsection (1)(a) and the transaction involves any dangerous
1164 weapon other than a firearm, and the transferor has knowledge that the recipient intends to use
1165 the weapon for any unlawful purpose, is guilty of a third degree felony;

1166 (iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is
1167 guilty of a third degree felony; or

1168 (iv) a person described in Subsection (1)(b) and the transaction involves any dangerous
1169 weapon other than a firearm, and the transferor has knowledge that the recipient intends to use
1170 the weapon for any unlawful purpose, is guilty of a class A misdemeanor.

1171 (9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or
1172 other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under
1173 circumstances which the person knows would be a violation of the law.

1174 (b) A person may not provide to a dealer or other person any information that the

1175 person knows to be materially false information with intent to deceive the dealer or other
1176 person about the legality of a sale, transfer or other disposition of a firearm or dangerous
1177 weapon.

1178 (c) "Materially false information" means information that portrays an illegal transaction
1179 as legal or a legal transaction as illegal.

1180 (d) A person who violates this Subsection (9) is guilty of:

1181 (i) a third degree felony if the transaction involved a firearm; or

1182 (ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a
1183 firearm.

1184 Section 19. Section **76-10-1108** is amended to read:

1185 **76-10-1108. Seizure and disposition of gambling debts or proceeds.**

1186 Any gambling bets or gambling proceeds which are reasonably identifiable as having
1187 been used or obtained in violation of this part may be seized and are subject to forfeiture
1188 proceedings in accordance with [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77,
1189 Chapter 11b, Forfeiture of Seized Property.

1190 Section 20. Section **76-10-1112** is amended to read:

1191 **76-10-1112. Local control.**

1192 (1) Nothing in this part preempts or otherwise limits the authority of a county or
1193 municipality to enact a local ordinance related to gambling or fringe gambling.

1194 (2) In accordance with [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77,
1195 Chapter 11a, Seizure and Retention of Property and Contraband, a county or municipality may
1196 seize gambling debts, gambling proceeds, or fringe gaming devices that are reasonably
1197 identifiable as being obtained or provided in violation of this part or a local ordinance.

1198 Section 21. Section **77-11a-101**, which is renumbered from Section 24-1-102 is
1199 renumbered and amended to read:

1200 **CHAPTER 11a. SEIZURE AND RETENTION OF PROPERTY AND CONTRABAND**

1201 **Part 1. General Provisions**

1202 [~~24-1-102~~]. **77-11a-101. Definitions.**

1203 As used in this [~~title~~] chapter:

1204 [(1) "~~Account~~" means the ~~Criminal Forfeiture Restricted Account~~ created in Section
1205 ~~24-4-116.~~]

1206 [~~(2) (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not~~
1207 ~~guilty.~~]

1208 [~~(b) "Acquitted" does not include:~~]

1209 [~~(i) a verdict of guilty on a lesser or reduced charge;~~]

1210 [~~(ii) a plea of guilty to a lesser or reduced charge; or~~]

1211 [~~(iii) dismissal of a charge as a result of a negotiated plea agreement.~~]

1212 [~~(3)~~] (1) (a) "Agency" means an agency of this state or a political subdivision of this
1213 state.

1214 (b) "Agency" includes a law enforcement agency or a multijurisdictional task force.

1215 (2) (a) "Biological evidence" means an item that contains blood, semen, hair, saliva,
1216 epithelial cells, latent fingerprint evidence that may contain biological material suitable for
1217 DNA testing, or other identifiable human biological material that:

1218 (i) is collected as part of an investigation or prosecution of an offense; and

1219 (ii) may reasonably be used to incriminate or exculpate a person for the offense.

1220 (b) "Biological evidence" includes:

1221 (i) material that is catalogued separately, including:

1222 (A) on a slide or swab; or

1223 (B) inside a test tube, if the evidentiary sample that previously was inside the test tube
1224 has been consumed by testing;

1225 (ii) material that is present on other evidence, including clothing, a ligature, bedding, a
1226 drinking cup, a cigarette, or a weapon, from which a DNA profile may be obtained;

1227 (iii) the contents of a sexual assault examination kit; and

1228 (iv) for a violent felony offense, material described in this Subsection (2) that is in the
1229 custody of an evidence collecting or retaining entity on May 4, 2022.

1230 [~~(4)~~] (3) "Claimant" means:

1231 (a) an owner of property [as defined in this section];

1232 (b) an interest holder [as defined in this section]; or

1233 (c) an individual or entity who asserts a claim to any property [seized for forfeiture
1234 under this title] for which an agency seeks to forfeit.

1235 [~~(5) "Commission" means the State Commission on Criminal and Juvenile Justice~~
1236 ~~created in Section [63M-7-201](#).~~]

1237 ~~[(6) "Complaint" means a civil or criminal complaint seeking the forfeiture of any real~~
1238 ~~or personal property under this title.]~~

1239 [(7)] (4) (a) "Computer" means an electronic, magnetic, optical, electrochemical, or
1240 other high-speed data processing device that performs logical, arithmetic, and storage
1241 functions.

1242 (b) "Computer" includes any device that is used for the storage of digital or electronic
1243 files, flash memory, software, or other electronic information.

1244 (c) "Computer" does not mean a computer server of an Internet or electronic service
1245 provider, or the service provider's employee, if used to comply with the requirements under 18
1246 U.S.C. Sec. 2258A.

1247 ~~[(8) "Constructive seizure" means a seizure of property where the property is left in the~~
1248 ~~control of the owner and an agency posts the property with a notice of intent to seek forfeiture.]~~

1249 (5) "Continuous chain of custody" means:

1250 (a) for a law enforcement agency or a court, that legal standards regarding a continuous
1251 chain of custody are maintained; and

1252 (b) for an entity that is not a law enforcement agency or a court, that the entity
1253 maintains a record in accordance with legal standards required of the entity.

1254 [(9)] (6) (a) "Contraband" means any property, item, or substance that is unlawful to
1255 produce or to possess under state or federal law.

1256 (b) "Contraband" includes:

1257 (i) a controlled substance that is possessed, transferred, distributed, or offered for
1258 distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

1259 (ii) a computer that:

1260 (A) contains or houses child pornography, or is used to create, download, transfer,
1261 upload to a storage account, or store any electronic or digital files containing child
1262 pornography; or

1263 (B) contains the personal identifying information of another individual, as defined in
1264 Subsection 76-6-1102(1), whether that individual is alive or deceased, and the personal
1265 identifying information has been used to create false or fraudulent identification documents or
1266 financial transaction cards in violation of Title 76, Chapter 6, Part 5, Fraud.

1267 (7) "Controlled substance" means the same as that term is defined in Section 58-37-2.

- 1268 (8) "Court" means a municipal, county, or state court.
- 1269 (9) "DNA" means deoxyribonucleic acid.
- 1270 (10) "DNA profile" means a unique identifier of an individual derived from DNA.
- 1271 (11) "Drug paraphernalia" means the same as that term is defined in Section [58-37a-3](#).
- 1272 (12) "Evidence" means property, contraband, or an item or substance that:
- 1273 (a) is seized or collected as part of an investigation or prosecution of an offense; and
- 1274 (b) may reasonably be used to incriminate or exculpate an individual for an offense.
- 1275 (13) (a) "Evidence collecting or retaining entity" means an entity within the state that
- 1276 collects, stores, or retrieves biological evidence.
- 1277 (b) "Evidence collecting or retaining entity" includes:
- 1278 (i) a medical or forensic entity;
- 1279 (ii) a law enforcement agency;
- 1280 (iii) a court; and
- 1281 (iv) an official, employee, or agent of an entity or agency described in this Subsection
- 1282 (13).
- 1283 (14) "Exhibit" means property or contraband that is admitted into evidence for a court
- 1284 proceeding.
- 1285 ~~[(10)]~~ (15) "Forfeit" means to divest a claimant of an ownership interest in property
- 1286 seized ~~[under this title]~~ by a peace officer or agency.
- 1287 (16) "In custody" means an individual who:
- 1288 (a) is incarcerated, civilly committed, on parole, or on probation; or
- 1289 (b) is required to register under Title 77, Chapter 41, Sex and Kidnap Offender
- 1290 Registry.
- 1291 ~~[(11)]~~ (17) "Innocent owner" means a claimant who:
- 1292 (a) held an ownership interest in property at the time of the commission of an offense
- 1293 subjecting the property to ~~[forfeiture under this title]~~ seizure, and:
- 1294 (i) did not have actual knowledge of the offense subjecting the property to ~~[forfeiture]~~
- 1295 seizure; or
- 1296 (ii) upon learning of the commission of the offense, took reasonable steps to prohibit
- 1297 the use of the property in the commission of the offense; or
- 1298 (b) acquired an ownership interest in the property and had no knowledge that the

1299 commission of the offense subjecting the property to [~~forfeiture under this title~~] seizure had
1300 occurred or that the property had been seized [~~for forfeiture~~], and:

1301 (i) acquired the property in a bona fide transaction for value;

1302 (ii) was an individual, including a minor child, who acquired an interest in the property
1303 through probate or inheritance; or

1304 (iii) was a spouse who acquired an interest in property through dissolution of marriage
1305 or by operation of law.

1306 [(12)] (18) (a) "Interest holder" means a secured party as defined in Section
1307 70A-9a-102, a party with a right-of-offset, a mortgagee, lien creditor, or the beneficiary of a
1308 security interest or encumbrance pertaining to an interest in property, whose interest would be
1309 perfected against a good faith purchaser for value.

1310 (b) "Interest holder" does not mean a person:

1311 (i) who holds property for the benefit of or as an agent or nominee for another person;
1312 or

1313 (ii) who is not in substantial compliance with any statute requiring an interest in
1314 property to be:

1315 (A) recorded or reflected in public records in order to perfect the interest against a good
1316 faith purchaser for value; or

1317 (B) held in control by a secured party, as defined in Section 70A-9a-102, in accordance
1318 with Section 70A-9a-314 in order to perfect the interest against a good faith purchaser for
1319 value.

1320 (19) "Law enforcement agency" means:

1321 (a) a municipal, county, state institution of higher education, or state police force or
1322 department;

1323 (b) a sheriff's office; or

1324 (c) a municipal, county, or state prosecuting authority.

1325 [(13) "~~Known address~~" means any address provided by a claimant to the peace officer
1326 or agency at the time the property is seized, or the claimant's most recent address on record
1327 with a governmental entity if no address was provided at the time of the seizure.]

1328 [(14) "~~Legal costs~~" means the costs and expenses incurred by a party in a forfeiture
1329 action.]

1330 ~~[(15)]~~ (20) "Legislative body" means:

1331 (a) (i) the Legislature, county commission, county council, city commission, city
1332 council, or town council that has fiscal oversight and budgetary approval authority over an
1333 agency; or

1334 (ii) the agency's governing political subdivision; or

1335 (b) the lead governmental entity of a multijurisdictional task force, as designated in a
1336 memorandum of understanding executed by the agencies participating in the task force.

1337 (21) "Medical or forensic entity" means a private or public hospital, medical facility, or
1338 other entity that secures biological evidence or conducts forensic examinations related to
1339 criminal investigations.

1340 ~~[(16)]~~ (22) "Multijurisdictional task force" means a law enforcement task force or other
1341 agency comprised of individuals who are employed by or acting under the authority of different
1342 governmental entities, including federal, state, county, or municipal governments, or any
1343 combination of federal, state, county, or municipal agencies.

1344 ~~[(17)]~~ (23) "Owner" means an individual or entity, other than an interest holder, that
1345 possesses a bona fide legal or equitable interest in ~~[real or personal]~~ property.

1346 (24) "Pawn or secondhand business" means the same as that term is defined in Section
1347 [13-32a-102](#).

1348 ~~[(18)]~~ (25) "Peace officer" means an employee:

1349 (a) of an agency;

1350 (b) whose duties consist primarily of the prevention and detection of violations of laws
1351 of this state or a political subdivision of this state; and

1352 (c) who is authorized by the agency to seize property ~~[under this title]~~.

1353 (26) "Physical evidence" includes evidence that:

1354 (a) is related to:

1355 (i) an investigation;

1356 (ii) an arrest; or

1357 (iii) a prosecution that resulted in a judgment of conviction; and

1358 (b) is in the actual or constructive possession of a law enforcement agency or a court or
1359 an agent of a law enforcement agency or a court.

1360 ~~[(19)]~~ (27) (a) "Proceeds" means:

- 1361 (i) property of any kind that is obtained directly or indirectly as a result of the
1362 commission of an offense; or
- 1363 (ii) any property acquired directly or indirectly from, produced through, realized
1364 through, or caused by an act or omission regarding property under Subsection ~~[(19)(a)(i)]~~
1365 (27)(a)(i).
- 1366 (b) "Proceeds" includes any property of any kind without reduction for expenses
1367 incurred in the acquisition, maintenance, or production of that property, or any other purpose
1368 regarding property under Subsection ~~[(19)(a)(i)]~~ (27)(a)(i).
- 1369 (c) "Proceeds" is not limited to the net gain or profit realized from the offense that
1370 subjects the property to ~~[forfeiture]~~ seizure.
- 1371 ~~[(20) "Program" means the State Asset Forfeiture Grant Program created in Section~~
1372 ~~24-4-117.]~~
- 1373 ~~[(21)]~~ (28) (a) "Property" means all property, whether real or personal, tangible or
1374 intangible.
- 1375 (b) "Property" does not include contraband.
- 1376 ~~[(22)]~~ (29) "Prosecuting attorney" means:
- 1377 (a) the attorney general and an assistant attorney general;
- 1378 (b) a district attorney or deputy district attorney;
- 1379 (c) a county attorney or assistant county attorney; and
- 1380 (d) an attorney authorized to commence an action on behalf of the state ~~[under this~~
1381 ~~title]~~.
- 1382 ~~[(23)]~~ (30) "Public interest use" means a:
- 1383 (a) use by a government agency as determined by the legislative body of the agency's
1384 jurisdiction; or
- 1385 (b) donation of the property to a nonprofit charity registered with the state.
- 1386 (31) (a) "Seized property" means property seized by a peace officer or agency in
1387 accordance with Section 77-11a-201.
- 1388 (b) "Seized property" includes property that the agency seeks to forfeit under Chapter
1389 11b, Forfeiture of Seized Property.
- 1390 ~~[(24)]~~ (32) "Real property" means land, including any building, fixture, improvement,
1391 appurtenance, structure, or other development that is affixed permanently to land.

1392 (33) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

1393 Section 22. Section **77-11a-102**, which is renumbered from Section 24-1-103 is
1394 renumbered and amended to read:

1395 ~~[24-1-103].~~ 77-11a-102. Venue.

1396 (1) In addition to ~~[the venue provided for under]~~ Title 78B, Chapter 3, Part 3, Place of
1397 Trial -- Venue, or any other ~~[provisions of law, a proceeding under this title may be~~
1398 ~~maintained]~~ provision of law, a person may bring an action or proceeding under this chapter in
1399 the judicial district in which:

1400 (a) the property is seized; or

1401 (b) any part of the property is found~~;~~ or.

1402 ~~[(c) a civil or criminal action could be maintained against a claimant for the offense~~
1403 ~~subjecting the property to forfeiture under this title.]~~

1404 (2) A claimant may obtain a change of venue under Section 78B-3-309.

1405 Section 23. Section **77-11a-201**, which is renumbered from Section 24-2-102 is
1406 renumbered and amended to read:

1407 **Part 2. Seizure of Property and Contraband**

1408 ~~[24-2-102].~~ 77-11a-201. Grounds for seizing property and contraband.

1409 ~~[(+)]~~ A peace officer may seize property ~~[and]~~ or contraband:

1410 (1) upon a search warrant or administrative warrant that is issued in accordance with
1411 the Utah Code and the Utah Rules of Criminal Procedure~~[-]~~;

1412 ~~[(2) A peace officer may seize property and contraband under this chapter when:]~~

1413 ~~[(a)]~~ (2) when the seizure is incident to an arrest;

1414 ~~[(b)]~~ (3) when the property seized is the subject of a prior judgment in favor of the state
1415 in a criminal injunction or forfeiture proceeding under ~~[this title]~~ Chapter 11b, Forfeiture of

1416 Seized Property; or

1417 ~~[(c)]~~ (4) when the peace officer has probable cause to believe that the property or
1418 contraband:

1419 ~~[(i)]~~ (a) is directly or indirectly dangerous to health or safety;

1420 ~~[(ii)]~~ (b) is evidence of an offense;

1421 ~~[(iii)]~~ (c) has been used or was intended to be used to commit an offense; or

1422 ~~[(iv)]~~ (d) is proceeds of an offense.

1423 Section 24. Section **77-11a-202**, which is renumbered from Section 24-2-102.5 is
1424 renumbered and amended to read:

1425 ~~[24-2-102.5].~~ **77-11a-202. Ownership interest in property or contraband**
1426 **seized by a peace officer.**

1427 (1) To disclaim an ownership interest in property at the time of seizure, a person's
1428 disclaimer of the property must be knowing and voluntary.

1429 (2) [If a peace officer seizes contraband, a] A person may not assert an ownership
1430 interest in [the contraband under this title] contraband seized by a peace officer.

1431 Section 25. Section **77-11a-203**, which is renumbered from Section 24-2-103 is
1432 renumbered and amended to read:

1433 ~~[24-2-103].~~ **77-11a-203. Procedure after seizure of property or contraband.**

1434 ~~[(1) To disclaim an ownership interest in property at the time of seizure, an individual's~~
1435 ~~disclaimer of the property shall be knowing and voluntary.]~~

1436 (1) If a peace officer seizes property or contraband under Section [77-11a-201](#), the
1437 property and contraband:

1438 (a) is not recoverable by replevin; and

1439 (b) is considered in the custody of the agency that employed the peace officer.

1440 (2) If property is seized, the peace officer or the peace officer's employing agency shall
1441 provide a receipt to the person from which the property is seized.

1442 (3) The receipt shall describe the:

1443 (a) property seized;

1444 (b) date of seizure; and

1445 (c) name and contact information of the peace officer's employing agency.

1446 (4) In addition to the receipt, the peace officer or agency shall provide the person with:

1447 (a) information on:

1448 (i) the time periods for the forfeiture of property; and

1449 (ii) what happens to property upon a conviction or acquittal of the offense subjecting
1450 the property to seizure; and

1451 (b) a web link or referral to the self-help webpage of the Utah Courts' website for
1452 resources that may assist the person in making a claim for the return of seized property.

1453 (5) The agency shall maintain a copy of the receipt provided in accordance with

1454 Subsection (2).

1455 (6) If a peace officer seizes property that at the time of seizure is held by a pawn or
 1456 secondhand business in the course of the pawn or secondhand business's business, the
 1457 provisions of Section 13-32a-109.5 shall apply to the seizure of the property.

1458 ~~[(6)]~~ (7) If custody of the property is transferred to another agency, the transferring
 1459 agency shall provide the other agency a copy of the receipt under Subsection (2) and the name
 1460 of the person from which the property was seized.

1461 Section 26. Section ~~77-11a-204~~, which is renumbered from Section 24-2-104 is
 1462 renumbered and amended to read:

1463 ~~[24-2-104].~~ **77-11a-204. Custody of seized property and contraband.**

1464 ~~[(1) If a peace officer seizes property or contraband under Section 24-2-102, the~~
 1465 ~~property and contraband:]~~

1466 ~~[(a) is not recoverable by replevin; and]~~

1467 ~~[(b) is considered in the custody of the agency that employed the peace officer.]~~

1468 ~~[(2)]~~ (1) An agency with custody of seized property or contraband shall:

1469 (a) hold the property or contraband in safe custody until the property or contraband is
 1470 released or disposed of in accordance with~~[:]~~ this chapter; and

1471 ~~[(i) this title; and]~~

1472 ~~[(ii) Title 53, Chapter 20, Forensic Biological Evidence Preservation; and]~~

1473 (b) maintain a record of the property or contraband, including:

1474 (i) a detailed inventory of all property or contraband seized;

1475 (ii) the name of the person from which the property or contraband was seized; and

1476 (iii) the agency's case number.

1477 ~~[(3) In accordance with Title 53, Chapter 20, Forensic Biological Evidence~~

1478 ~~Preservation, an agency may process property or contraband that is seized by a peace officer for~~
 1479 ~~evidentiary or investigative purposes, including sampling or other preservation procedure,~~
 1480 ~~before disposal or destruction.]~~

1481 ~~[(4)]~~ (2) (a) Except as provided in Subsection ~~[(4)(b)]~~ (2)(b), no later than 30 days after
 1482 the day on which a peace officer seizes property in the form of cash or other readily negotiable
 1483 instruments ~~[under Section 24-2-102]~~, an agency shall deposit the property into a separate,
 1484 restricted, interest-bearing account maintained by the agency solely for the purpose of

1485 managing and protecting the property from commingling, loss, or devaluation.

1486 (b) A prosecuting attorney may authorize one or more written extensions of the 30-day
1487 period under Subsection [~~(4)(a)~~] (2)(a) if the property needs to maintain the form in which the
1488 property was seized for evidentiary purposes or other good cause.

1489 [~~(c)~~] (3) An agency shall:

1490 [~~(i)~~] (a) have written policies for the identification, tracking, management, and
1491 safekeeping of seized property and contraband; and

1492 [~~(ii)~~] (b) shall have a written policy that prohibits the transfer, sale, or auction of seized
1493 property and contraband to an employee of the agency.

1494 Section 27. Section ~~77-11a-205~~, which is renumbered from Section 24-2-105 is
1495 renumbered and amended to read:

1496 ~~[24-2-105].~~ 77-11a-205. Transfer or release of seized property to another
1497 governmental entity -- Requirements.

1498 (1) Except as provided in Subsections [~~(3)(a), (b), and (c);~~] (3)(a) through (c), upon the
1499 seizure of property by a peace officer [~~under this title~~], the property is subject to the exclusive
1500 jurisdiction of a district court of this state.

1501 (2) Except as provided in Subsection (3), a peace officer, agency, or prosecuting
1502 attorney may not directly or indirectly transfer or release [~~property seized under this title~~]
1503 seized property to a federal agency or to a governmental entity not created or subject to the
1504 laws of this state.

1505 (3) An agency or prosecuting attorney may transfer or release seized property to a
1506 federal agency or to a governmental entity not created or subject to the laws of this state if:

1507 (a) (i) the property is cash or another readily negotiable instrument; and

1508 (ii) the property is evidence in, or subject to, a federal criminal indictment, a federal
1509 criminal information, or a federal criminal complaint that is filed before the property is seized;

1510 (b) (i) the property is not cash or another readily negotiable instrument; and

1511 (ii) the property is evidence in, or subject to, a federal criminal indictment, a federal
1512 criminal information, or a federal criminal complaint that is filed before the day on which the
1513 agency with custody of the property is required to return the property if no criminal or civil
1514 action is filed by the prosecuting attorney or a federal prosecutor in accordance with Section

1515 [~~24-4-103.5~~] 77-11b-203;

1516 (c) (i) the property was used in the commission of an offense in another state; and
1517 (ii) an agency of that state requests the transfer of the property before the day on which
1518 the agency with custody of the property is required to return the property if no criminal or civil
1519 action is filed by the prosecuting attorney or a federal prosecutor in accordance with Section
1520 ~~[24-4-103.5]~~ [77-11b-203](#); or

1521 (d) a district court authorizes, in accordance with Subsection (5), the transfer or release
1522 of the property to an agency of another state or a federal agency upon a petition by a
1523 prosecuting attorney or a federal prosecutor.

1524 (4) (a) A prosecuting attorney, or a federal prosecutor, may file a petition in the district
1525 court for the transfer or release of seized property.

1526 (b) If a prosecuting attorney, or a federal prosecutor, files a petition under Subsection
1527 (4)(a), the petition shall include:

1528 (i) a detailed description of the property seized;

1529 (ii) the location where the property was seized;

1530 (iii) the date the property was seized;

1531 (iv) the case number assigned by the agency; and

1532 (v) a declaration that:

1533 (A) states the basis for relinquishing jurisdiction to a federal agency or an agency of
1534 another state;

1535 (B) contains the names and addresses of any known claimant; and

1536 (C) is signed by the prosecuting attorney or federal prosecutor.

1537 (5) A district court may not authorize the transfer or release of seized property under
1538 Subsection (3)(d), unless the district court finds, by a preponderance of the evidence:

1539 (a) the property is evidence in, or subject to, a federal criminal indictment, a federal
1540 criminal information, or a federal criminal complaint after the property is seized;

1541 (b) the property may only be forfeited under federal law;

1542 (c) forfeiting the property under state law would unreasonably burden the prosecuting
1543 attorney or agency; or

1544 (d) the property was subject to a federal criminal investigation before the property was
1545 seized.

1546 (6) (a) Before a district court may order the transfer of seized property in accordance

1547 with this section, the court, the prosecuting attorney, or the federal prosecutor shall mail a
1548 notice to:

1549 (i) each address contained in the declaration under Subsection (4)(b)(v) to give a
1550 claimant the right to be heard with regard to the transfer; and

1551 (ii) (A) if a federal prosecutor files the petition under Subsection (4), the prosecuting
1552 attorney that is representing the agency with custody of the property; or

1553 (B) if a prosecuting attorney files the petition under Subsection (4), the federal
1554 prosecutor who will receive the property upon the transfer or release of the property.

1555 (b) If a claimant, or the party under Subsection (6)(a)(i), does not object to the petition
1556 to transfer the property within 10 days after the day on which the notice is mailed, the district
1557 court shall issue the district court's order in accordance with this section.

1558 (c) If the declaration does not include an address for a claimant, the district court shall
1559 delay the district court's order under this section for 20 days to allow time for the claimant to
1560 appear and make an objection.

1561 (d) (i) If a claimant, or a party under Subsection (6)(a)(i), contests a petition to transfer
1562 the property to a federal agency or to another governmental entity not created or subject to the
1563 laws of this state, the district court shall promptly set the matter for hearing.

1564 (ii) In making a determination under Subsection (5), the district court shall consider
1565 evidence regarding hardship, complexity, judicial and law enforcement resources, protections
1566 afforded under state and federal law, pending state or federal investigations, and any other
1567 relevant matter.

1568 (7) If an agency receives property, money, or other things of value under a federal law
1569 that authorizes the sharing or transfer of all or a portion of forfeited property, or the proceeds
1570 from the sale of forfeited property, the agency:

1571 (a) shall use the property, money, or other things of value in compliance with federal
1572 laws and regulations relating to equitable sharing;

1573 (b) may use the property, money, or other things of value for a law enforcement
1574 purpose described in Subsection [~~24-4-117(10)~~] 77-11b-403(10); and

1575 (c) may not use the property, money, or other thing of value for a law enforcement
1576 purpose prohibited in Subsection [~~24-4-117(11)~~] 77-11b-403(11).

1577 (8) An agency awarded an equitable share of property forfeited by the federal

1578 government may use the award money only after approval of the use by the agency's legislative
1579 body.

1580 (9) If a district court exercises exclusive jurisdiction over seized property, the district
1581 court's exclusive jurisdiction is terminated if the property is released by the agency with
1582 custody of the property to a claimant under:

1583 (a) Part 5, Release of Property to Claimant; or

1584 (b) Section 77-11b-203.[:]

1585 [~~(a) a claimant under Subsection 24-2-107(1)(a), Section 24-3-104, or Section~~
1586 ~~24-4-103.5;~~]

1587 [~~(b) a rightful owner under Section 24-3-103; or]~~

1588 [~~(c) an innocent owner or an interest holder under Section 24-2-108.]~~

1589 Section 28. Section 77-11a-301 is enacted to read:

1590 **Part 3. Retention of Property and Contraband as Evidence**

1591 **77-11a-301. Applicability of this part.**

1592 The requirements of this part do not apply to the retention and preservation of property
1593 or contraband that is subject to Part 4, Preservation of Biological Evidence for Violent Felony
1594 Offenses.

1595 Section 29. Section 77-11a-302 is enacted to read:

1596 **77-11a-302. Retention of evidence -- Time period for retention.**

1597 (1) An agency shall retain property or contraband as evidence if the property or
1598 contraband:

1599 (a) is seized as part of an investigation or prosecution of an offense; and

1600 (b) may reasonably be used to incriminate or exculpate a person for the offense.

1601 (2) If an agency determines that property or contraband is evidence under Subsection
1602 (1), the agency shall retain the property or contraband for the longer of:

1603 (a) the length of the statute of limitations for the offense if:

1604 (i) no charges are filed for the offense; or

1605 (ii) the offense remains unsolved;

1606 (b) 60 days after the day on which any individual is convicted and sentenced for the
1607 offense if:

1608 (i) each individual charged with the offense has been convicted and sentenced by a

1609 justice court; and
1610 (ii) there is no appeal pending in the district court for a trial de novo for any individual
1611 convicted and sentenced for the offense;
1612 (c) 30 days after the day on which any individual is convicted and sentenced for the
1613 offense by a district court on a trial de novo from the justice court if:
1614 (i) each individual charged with the offense has been convicted and sentenced by a
1615 justice court or by a district court on a trial de novo from the justice court; and
1616 (ii) there is no appeal pending in the district court for a trial de novo for any individual
1617 convicted and sentenced for the offense; or
1618 (d) the length of time that any individual convicted and sentenced for the offense
1619 remains in custody for the offense if a class A misdemeanor or felony is the highest level of
1620 offense for which any individual is convicted and sentenced.
1621 (3) An agency shall ensure that property or contraband retained as evidence is subject
1622 to a continuous chain of custody.
1623 (4) An agency is not required to retain property or contraband as evidence under
1624 Subsection (2) if:
1625 (a) (i) the agency determines that:
1626 (A) the size, bulk, or physical character renders retention of the property or contraband
1627 impracticable; or
1628 (B) the property or contraband poses a security or safety problem for the agency;
1629 (ii) the agency can preserve sufficient evidence from the property or contraband for use
1630 as evidence in a prosecution of an offense in accordance with the requirements of Section
1631 [77-11a-303](#);
1632 (iii) the agency sends a written request under Subsection [77-11a-304](#)(1) to the
1633 prosecuting attorney for permission to dispose of or release the property or contraband; and
1634 (iv) the prosecuting attorney grants the agency's written request in accordance with
1635 Section [77-11a-304](#); or
1636 (b) a court orders the agency to return the property to a claimant under Section
1637 [77-11a-505](#).
1638 (5) If an agency is not required to retain property as evidence under this section or is no
1639 longer required to retain the property as evidence under Subsection (2), the agency shall:

1640 (a) return the property to a claimant under Part 5, Release of Property to Claimant; or
1641 (b) dispose of the property in accordance with Part 6, Disposal of Seized Property and
1642 Contraband.

1643 (6) If an agency is not required to retain contraband as evidence under this section or is
1644 no longer required to retain the contraband as evidence under Subsection (2), the agency shall
1645 dispose of the contraband in accordance with Part 6, Disposal of Seized Property and
1646 Contraband.

1647 Section 30. Section **77-11a-303** is enacted to read:

1648 **77-11a-303. Preservation of evidence from property or contraband.**

1649 (1) If an agency is not required to retain property or contraband as evidence under
1650 Subsection [77-11a-302](#)(4), the agency shall preserve evidence from the property or contraband
1651 in accordance with this section.

1652 (2) If contraband is a controlled substance, an agency shall preserve sufficient evidence
1653 from the controlled substance by:

1654 (a) collecting and preserving samples from the controlled substance and any biological
1655 evidence on the controlled substance for independent testing and use as evidence;

1656 (b) taking a photographic or video record of the controlled substance with identifying
1657 case numbers;

1658 (c) completing a written chemical report of the controlled substance; and

1659 (d) if the controlled substance exceeds 10 pounds, retain at least one pound of the
1660 controlled substance that is randomly selected from the controlled substance.

1661 (3) If contraband is drug paraphernalia, an agency shall preserve sufficient evidence
1662 from the drug paraphernalia by:

1663 (a) collecting and preserving samples of the drug paraphernalia and any biological
1664 evidence on the drug paraphernalia for independent testing;

1665 (b) completing a written chemical report of the drug paraphernalia; and

1666 (c) taking a photographic or video record of the drug paraphernalia with identifying
1667 case numbers.

1668 (4) If contraband or property is a computer, the agency shall preserve sufficient
1669 evidence from the computer by:

1670 (a) extracting all data from the computer that would be evidence in a criminal

1671 proceeding;

1672 (b) collecting any biological evidence on the computer for independent testing and use
1673 as evidence; and

1674 (c) taking a photographic or video record of the computer with identifying case
1675 numbers.

1676 (5) For any other type of property or contraband, the agency shall preserve sufficient
1677 evidence from the property or contraband by:

1678 (a) collecting and preserving samples of any biological evidence on the property or
1679 contraband for independent testing and use as evidence; and

1680 (b) taking a photographic or video record of the property or contraband with
1681 identifying case numbers.

1682 Section 31. Section **77-11a-304** is enacted to read:

1683 **77-11a-304. Request to prosecuting attorney by agency -- Notification to**
1684 **defendant.**

1685 (1) If an agency determines that the agency is not required to retain property or
1686 contraband under Subsection [77-11a-302\(4\)\(a\)\(i\)](#) or (ii) and the agency seeks to release or
1687 dispose of the property or contraband, the agency shall send a written request to the prosecuting
1688 attorney that:

1689 (a) identifies the property or contraband;

1690 (b) explains the reason for which the agency is not required to retain the property or
1691 contraband under Subsection [77-11a-304\(a\)\(i\)](#) or (ii); and

1692 (c) explains the steps that the agency will take, or has taken, to preserve sufficient
1693 evidence from the property or contraband for use as evidence in a prosecution of an offense.

1694 (2) If the prosecuting attorney receives a written request under Subsection (1) and
1695 determines that the agency needs to retain the property or contraband as evidence in the
1696 prosecution of an offense, the prosecuting attorney shall send a written notification to the
1697 agency that explains the reason for which the prosecuting attorney is denying the agency's
1698 request.

1699 (3) If the prosecuting attorney receives a written request under Subsection (1) and
1700 determines that the agency does not need to retain the property or contraband as evidence, the
1701 prosecuting attorney shall provide written notice of the intent to not retain the property or

1702 contraband as evidence that:

1703 (a) is sent by certified mail, return receipt requested, or a delivery service that provides
1704 proof of delivery, to:

1705 (i) any defendant charged with or convicted and sentenced for the offense; and

1706 (ii) the defendant's most recent attorney of record; and

1707 (b) explains that the defendant receiving the notice may submit a written objection to
1708 the prosecuting attorney.

1709 (4) (a) A defendant may submit a written objection to the disposal or release of the
1710 property or contraband by the agency no later than 180 days after the day on which the
1711 prosecuting attorney receives proof of delivery under Subsection (3).

1712 (b) If a defendant submits a written objection under Subsection (4)(a), the prosecuting
1713 attorney shall send a written notification to the agency that explains the reason for which the
1714 prosecuting attorney is denying the agency's request.

1715 (c) If the prosecuting attorney does not receive a written objection within the time
1716 period described in Subsection (4)(a), the prosecuting attorney shall send a written notification
1717 to the agency that grants the agency's request to release or dispose of the property or
1718 contraband.

1719 (5) (a) If a prosecuting attorney receives a written request from an agency seeking to
1720 release or dispose of property or contraband, the prosecuting attorney shall:

1721 (i) provide a notice of receipt to the agency within 30 days after the day on which the
1722 prosecuting attorney receives the written request; and

1723 (ii) send a written notification to the agency of the prosecuting attorney's decision to
1724 deny or grant an agency's written request within 210 days after the day on which the
1725 prosecuting attorney receives the agency's written request.

1726 (b) If an agency does not receive a notice of receipt under Subsection (5)(a)(i) or a
1727 written notification under Subsection (5)(a)(ii), the agency may send the written request to the
1728 district attorney, county attorney, attorney general, or other prosecutor who directly oversees
1729 and supervises the prosecuting attorney.

1730 (6) If a prosecuting attorney denies an agency's written request to release or dispose of
1731 property or contraband under this section, the agency shall retain the property or contraband in
1732 accordance with Subsections [77-11a-302\(2\)](#) and (3).

1733 Section 32. Section **77-11a-305** is enacted to read:

1734 **77-11a-305. Retention of property or contraband as an exhibit.**

1735 (1) If seized property or contraband is admitted as an exhibit for a court proceeding, the
1736 clerk of the court shall:

1737 (a) retain the property or contraband; or

1738 (b) return the property or contraband to the custody of the agency.

1739 (2) Rule 4-206 of the Utah Code of Judicial Administration applies to property or
1740 contraband that is admitted as an exhibit in a court proceeding.

1741 Section 33. Section **77-11a-401** is enacted to read:

1742 **Part 4. Preservation of Biological Evidence for Violent Felony Offenses**

1743 **77-11a-401. Applicability of this part to violent felony offenses.**

1744 The requirements of this part only apply to the retention and preservation of biological
1745 evidence that:

1746 (1) is collected as part of an investigation or prosecution of a violent felony offense;

1747 and

1748 (2) may reasonably be used to incriminate or exculpate a person for the violent felony
1749 offense.

1750 Section 34. Section **77-11a-402**, which is renumbered from Section 53-20-102 is
1751 renumbered and amended to read:

1752 ~~[53-20-102].~~ **77-11a-402. Preservation of biological evidence -- Procedures**
1753 **-- Inventory request.**

1754 (1) Except as provided in Section [~~53-20-103~~] 77-11a-403, an evidence collecting or
1755 retaining entity shall preserve biological evidence:

1756 (a) for the longer of:

1757 (i) the length of the statute of limitations for the violent felony offense if:

1758 (A) no charges are filed for the violent felony offense; or

1759 (B) the violent felony offense remains unsolved;

1760 (ii) the length of time that the individual convicted of the violent felony offense or any
1761 lesser included violent offense remains in custody; or

1762 (iii) the length of time that a co-defendant remains in custody;

1763 (b) in an amount and manner sufficient to:

1764 (i) develop a DNA profile; and
1765 (ii) if practicable, allow for independent testing of the biological evidence by a
1766 defendant; and
1767 (c) subject to a continuous chain of custody.
1768 (2) (a) Upon request by a defendant under Title 63G, Chapter 2, Government Records
1769 Access and Management Act, the evidence collecting or retaining entity shall prepare an
1770 inventory of the biological evidence preserved in connection with the defendant's criminal case.
1771 (b) If the evidence collecting or retaining entity cannot locate biological evidence
1772 requested under Subsection (2)(a), the custodian for the entity shall provide a sworn affidavit to
1773 the defendant that:
1774 (i) describes the efforts taken to locate the biological evidence; and
1775 (ii) affirms that the biological evidence could not be located.
1776 (3) The evidence collecting or retaining entity may dispose of biological evidence
1777 before the day on which the period described in Subsection (1)(a) expires if:
1778 (a) no other provision of federal or state law requires the evidence collecting or
1779 retaining entity to preserve the biological evidence;
1780 (b) the evidence collecting or retaining entity sends notice in accordance with
1781 Subsection (4); and
1782 (c) an individual notified under Subsection (4)(a) does not within 180 days after the
1783 day on which the evidence collecting or retaining entity receives proof of delivery under
1784 Subsection (4):
1785 (i) file a motion for testing of the biological evidence under Section 78B-9-301; or
1786 (ii) submit a written request under Subsection (4)(b)(ii).
1787 (4) If the evidence collecting or retaining entity intends to dispose of the biological
1788 evidence before the day on which the period described in Subsection (1)(a) expires, the
1789 evidence collecting or retaining entity shall send a notice of intent to dispose of the biological
1790 evidence that:
1791 (a) is sent by certified mail, return receipt requested, or a delivery service that provides
1792 proof of delivery, to:
1793 (i) an individual who remains in custody based on a criminal conviction related to the
1794 biological evidence;

1795 (ii) the private attorney or public defender of record for each individual described in
1796 Subsection (4)(a)(i);

1797 (iii) if applicable, the prosecuting agency responsible for the prosecution of each
1798 individual described in Subsection (4)(a)(i); and

1799 (iv) the Utah attorney general; and

1800 (b) explains that the party receiving the notice may:

1801 (i) file a motion for testing of biological evidence under Section 78B-9-301; or

1802 (ii) submit a written request that the evidence collecting or retaining entity retain the
1803 biological evidence.

1804 (5) (a) Subject to Subsections (5)(b) and (c), if the evidence collecting or retaining
1805 entity receives a written request to retain the biological evidence under Subsection (4)(b)(ii),
1806 the evidence collecting or retaining entity shall retain the biological evidence while the
1807 defendant remains in custody.

1808 (b) Subject to Subsection (5)(c), the evidence collecting or retaining entity is not
1809 required to preserve physical evidence that may contain biological evidence if the physical
1810 evidence's size, bulk, or physical character renders retention impracticable.

1811 (c) If the evidence collecting or retaining entity determines that retention is
1812 impracticable, before returning or disposing of the physical evidence, the evidence collecting or
1813 retaining entity shall:

1814 (i) remove the portions of the physical evidence likely to contain biological evidence
1815 related to the violent felony offense; and

1816 (ii) preserve the removed biological evidence in a quantity sufficient to permit future
1817 DNA testing.

1818 (6) To comply with the preservation requirements described in this section, a law
1819 enforcement agency or a court may:

1820 (a) retain the biological evidence; or

1821 (b) if a continuous chain of custody can be maintained, return the biological evidence
1822 to the custody of the other law enforcement agency that originally provided the biological
1823 evidence to the law enforcement agency.

1824 Section 35. Section 77-11a-403, which is renumbered from Section 53-20-103 is
1825 renumbered and amended to read:

1826 ~~[53-20-103]~~. 77-11a-403. **Exceptions to preservation of biological**
1827 **evidence.**

1828 (1) As used in this section, "offense concerning driving under the influence" means:

1829 (a) Section [41-6a-502](#);

1830 (b) Section [41-6a-502.5](#);

1831 (c) Section [41-6a-517](#);

1832 (d) Section [41-6a-530](#);

1833 (e) Section [76-5-102.1](#);

1834 (f) Section [76-5-207](#); and

1835 (g) a local ordinance similar to the offenses described in this Subsection (1).

1836 (2) Section ~~[53-20-102]~~ [77-11a-402](#) does not apply to biological evidence obtained
1837 during an investigation or prosecution for an offense concerning driving under the influence
1838 solely for toxicology purposes.

1839 Section 36. Section ~~77-11a-404~~, which is renumbered from Section 53-20-104 is
1840 renumbered and amended to read:

1841 ~~[53-20-104]~~. 77-11a-404. **Remedies for failure to preserve biological**
1842 **evidence.**

1843 (1) (a) Except as provided in Subsections (1)(b) and (2), if a court finds that biological
1844 evidence that reasonably could have been found to be exculpatory in a defendant's criminal
1845 case was not preserved in accordance with this chapter, the court may impose sanctions and
1846 remedies at the court's discretion, including:

1847 (i) the grant of a new trial;

1848 (ii) an instruction to the jury that evidence was not preserved as required by law;

1849 (iii) the reduction of the sentence;

1850 (iv) the dismissal of the criminal charge;

1851 (v) the vacation of the conviction; or

1852 (vi) the entry of a finding that because the evidence was not preserved in accordance
1853 with this chapter, a presumption exists that the evidence would have been exculpatory to the
1854 defendant.

1855 (b) The provisions in Subsection (1)(a) apply only if:

1856 (i) a defendant's appeal has not concluded;

1857 (ii) a defendant's time for appeal has not expired; or
 1858 (iii) a defendant has received a new trial in accordance with Subsection (2)(b).
 1859 (2) (a) A defendant shall seek relief under Title 78B, Chapter 9, Postconviction
 1860 Remedies Act, if:

1861 (i) the defendant alleges that the biological evidence that is the basis for the defendant's
 1862 claim was not preserved in accordance with this chapter; and

1863 (ii) (A) the defendant's appeal has concluded; or
 1864 (B) the time for the defendant's appeal has expired.

1865 (b) If a defendant obtains relief under Title 78B, Chapter 9, Postconviction Remedies
 1866 Act, the provisions in Subsection (1) apply to the defendant's new trial.

1867 Section 37. Section ~~77-11a-501~~, which is renumbered from Section 24-2-107 is
 1868 renumbered and amended to read:

1869 **Part 5. Release of Property to Claimant**

1870 ~~[24-2-107]~~. **77-11a-501. Release of seized property to claimant -- Generally.**

1871 ~~[(1)(a) Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation, an]~~

1872 (1) (a) An agency with custody of seized property, or the prosecuting attorney, may
 1873 release the property to a claimant if the agency or the prosecuting attorney:

1874 (i) determines that ~~[retention of the property is unnecessary]~~ the agency does not need
 1875 to retain or preserve the property as evidence; or

1876 (ii) seeks to return the property to the claimant because the agency or prosecuting
 1877 attorney determines that the claimant is an innocent owner or an interest holder.

1878 (b) An agency with custody of seized property, or the prosecuting attorney, may not
 1879 release property under this Subsection (1) if the property is subject to the retention
 1880 requirements under:

1881 (i) Part 3, Retention of Property and Contraband as Evidence; or

1882 (ii) Part 4, Preservation of Biological Evidence for Violent Felony Offenses.

1883 (c) If an agency is not required to retain or preserve property as evidence under Section
 1884 77-11a-302, the agency shall exercise due diligence in attempting to notify the claimant of the
 1885 property to advise the claimant that the property is to be returned.

1886 (d) If an agency is not required to retain property as evidence under Section 77-11a-302
 1887 and the victim is the owner of the property, the agency shall notify the victim that:

1888 (i) the agency may release the property to the victim in accordance with Subsection (4)
1889 if the victim seeks the return of the property; or

1890 (ii) the agency may dispose of the property if the victim does not seek the return of the
1891 property.

1892 ~~[(b)]~~ (2) An agency with custody of the seized property, or the prosecuting attorney,
1893 shall release the property to a claimant if:

1894 ~~[(i)]~~ (a) the claimant posts a surety bond or cash with the court in accordance with
1895 ~~[Subsection (2)]~~ Section 77-11a-502;

1896 ~~[(ii)]~~ (b) the court orders the release of property to the claimant for hardship purposes
1897 under ~~[Subsection (3)]~~ Section 77-11a-503;

1898 ~~[(iii)]~~ (c) a claimant establishes that the claimant is an innocent owner or an interest
1899 holder under ~~[Section 24-2-108]~~ Section 77-11a-504; or

1900 ~~[(iv)]~~ (d) the court orders property retained as evidence to be released to ~~[a rightful~~
1901 ~~owner]~~ the claimant under ~~[Section 24-3-104]~~ Section 77-11a-505.

1902 (3) (a) For a computer determined to be contraband, a court may order the reasonable
1903 extraction and return of specifically described personal digital data to the owner of the
1904 computer.

1905 (b) The agency shall determine a reasonable cost to extract the data.

1906 (c) At the time of the request to extract the data, the owner of the computer shall pay
1907 the agency the cost to extract the data.

1908 (4) (a) Before an agency may release seized property to a person claiming ownership of
1909 the property, the person shall establish that the person:

1910 (i) is the owner of the property; and

1911 (ii) may lawfully possess the property.

1912 (b) The person shall establish ownership under Subsection (4)(a) by providing to the
1913 agency:

1914 (i) identifying proof or documentation of ownership of the property; or

1915 (ii) a notarized statement if proof or documentation is not available.

1916 (c) When seized property is returned to the owner, the owner shall sign a receipt listing
1917 in detail the property that is returned.

1918 (d) The agency shall:

1919 (i) retain a copy of the receipt; and

1920 (ii) provide a copy of the receipt to the owner.

1921 ~~[(2)(a) Except as provided in Subsection (2)(b), a claimant may obtain release of~~

1922 ~~seized property by posting a surety bond or cash with the court that is in an amount equal to the~~

1923 ~~current fair market value of the property as determined by the court or a stipulation by the~~

1924 ~~parties.]~~

1925 ~~[(b) A court may refuse to order the release under Subsection (2)(a) of:]~~

1926 ~~[(i) the property if:]~~

1927 ~~[(A) the bond tendered is inadequate;]~~

1928 ~~[(B) the property is retained as evidence or is subject to retention under Title 53,~~

1929 ~~Chapter 20, Forensic Biological Evidence Preservation; or]~~

1930 ~~[(C) the property is particularly altered or designed for use in the commission of the~~

1931 ~~offense subjecting the property to forfeiture; or]~~

1932 ~~[(ii) contraband.]~~

1933 ~~[(c) If a surety bond or cash is posted and the court later determines that the property is~~

1934 ~~forfeited, the court shall order the forfeiture of the surety bond or cash in lieu of the property.]~~

1935 ~~[(3) A claimant is entitled to the immediate release of seized property for which the~~

1936 ~~agency has filed a notice of intent to forfeit under Section [24-4-103](#) if:]~~

1937 ~~[(a) the claimant had a possessory interest in the property at the time of seizure;]~~

1938 ~~[(b) continued possession by the agency pending a forfeiture proceeding will cause~~

1939 ~~substantial hardship to the claimant, including:]~~

1940 ~~[(i) preventing the functioning of a legitimate business;]~~

1941 ~~[(ii) preventing any individual from working;]~~

1942 ~~[(iii) preventing any child from attending elementary or secondary school;]~~

1943 ~~[(iv) preventing or hindering an individual from receiving necessary medical care;]~~

1944 ~~[(v) preventing the care of a dependent child or adult who is elderly or disabled;]~~

1945 ~~[(vi) leaving an individual homeless; or]~~

1946 ~~[(vii) any other condition that the court determines causes a substantial hardship;]~~

1947 ~~[(c) the hardship from the continued possession of the property by the agency~~

1948 ~~outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred~~

1949 ~~if the property is returned to the claimant during the pendency of the proceeding; and]~~

1950 ~~[(d) the determination of substantial hardship under this Subsection (3) is based upon~~
1951 ~~the property's use before the seizure.]~~

1952 ~~[(4) A claimant may file a motion or petition for hardship release under Subsection~~
1953 ~~(3):]~~

1954 ~~[(a) in the court in which forfeiture proceedings have commenced; or]~~

1955 ~~[(b) in a district court where there is venue if a forfeiture proceeding has not yet~~
1956 ~~commenced.]~~

1957 ~~[(5) The motion or petition for hardship release shall be served upon the agency with~~
1958 ~~custody of the property within five days after the day on which the motion or petition is filed.]~~

1959 ~~[(6) The court shall:]~~

1960 ~~[(a) schedule a hearing on the motion or petition within 14 days after the day on which~~
1961 ~~the motion or petition is filed; and]~~

1962 ~~[(b) render a decision on a motion or petition for hardship filed under this section no~~
1963 ~~later than 20 days after the day of the hearing, unless this period is extended by the agreement~~
1964 ~~of both parties or by the court for good cause shown.]~~

1965 ~~[(7) (a) If the claimant demonstrates substantial hardship under Subsection (3), the~~
1966 ~~court shall order the property immediately released to the claimant pending completion of any~~
1967 ~~forfeiture proceeding.]~~

1968 ~~[(b) The court may place conditions on release of the property as the court finds~~
1969 ~~necessary and appropriate to preserve the availability of the property or the property's~~
1970 ~~equivalent for forfeiture.]~~

1971 ~~[(8) The hardship release under this section does not apply to:]~~

1972 ~~[(a) contraband; or]~~

1973 ~~[(b) property that is:]~~

1974 ~~[(i) subject to retention under Title 53, Chapter 20, Forensic Biological Evidence~~
1975 ~~Preservation; or]~~

1976 ~~[(ii) likely to be used to commit additional offenses if returned to the claimant.]~~

1977 Section 38. Section **77-11a-502** is enacted to read:

1978 **77-11a-502. Release of seized property to claimant by surety bond or cash.**

1979 **(1) Except as provided in Subsection (2), a claimant may obtain release of seized**
1980 **property by posting a surety bond or cash with the court that is in an amount equal to the**

1981 current fair market value of the property as determined by the court or a stipulation by the
 1982 parties.

1983 (2) A court may refuse to order the release of property under Subsection (1) if:

1984 (a) the bond tendered for the property is inadequate;

1985 (b) the property is subject to retention under:

1986 (i) Part 3, Retention of Property and Contraband as Evidence; or

1987 (ii) Part 4, Preservation of Biological Evidence for Violent Felony Offenses;

1988 (c) the property is particularly altered or designed for use in the commission of the

1989 offense subjecting the property to forfeiture under Section [77-11b-102](#); or

1990 (d) the property is contraband.

1991 (3) If a surety bond or cash is posted and the court later determines that the property is
 1992 forfeited, the court shall order the forfeiture of the surety bond or cash in lieu of the property.

1993 Section 39. Section **77-11a-503** is enacted to read:

1994 **77-11a-503. Release of seized property subject to forfeiture to claimant for**
 1995 **hardship.**

1996 (1) A claimant is entitled to the immediate release of seized property for which the
 1997 agency has filed a notice of intent to forfeit under Section [77-11b-201](#) if:

1998 (a) the claimant had a possessory interest in the property at the time of seizure;

1999 (b) continued possession by the agency pending a forfeiture proceeding will cause
 2000 substantial hardship to the claimant, including:

2001 (i) preventing the functioning of a legitimate business;

2002 (ii) preventing any individual from working;

2003 (iii) preventing any child from attending elementary or secondary school;

2004 (iv) preventing or hindering an individual from receiving necessary medical care;

2005 (v) preventing the care of a dependent child or adult who is elderly or disabled;

2006 (vi) leaving an individual homeless; or

2007 (vii) any other condition that the court determines causes a substantial hardship;

2008 (c) the hardship from the continued possession of the property by the agency outweighs

2009 the risk that the property will be destroyed, damaged, lost, concealed, or transferred if the
 2010 property is returned to the claimant during the pendency of the proceeding; and

2011 (d) the determination of substantial hardship under this Subsection (1) is based upon

2012 the property's use before the seizure.

2013 (2) A claimant may file a motion or petition for hardship release under this section:

2014 (a) in the court in which forfeiture proceedings have commenced; or

2015 (b) in a district court where there is venue under Section [77-11a-102](#) if a forfeiture

2016 proceeding has not yet commenced.

2017 (3) The motion or petition for hardship release shall be served upon the agency with
2018 custody of the property within five days after the day on which the motion or petition is filed.

2019 (4) The court shall:

2020 (a) schedule a hearing on the motion or petition within 14 days after the day on which
2021 the motion or petition is filed; and

2022 (b) render a decision on a motion or petition for hardship filed under this section no
2023 later than 20 days after the day of the hearing, unless this period is extended by the agreement
2024 of both parties or by the court for good cause shown.

2025 (5) If the claimant demonstrates substantial hardship under Subsection (1), the court
2026 shall order the property immediately released to the claimant pending completion of any
2027 forfeiture proceeding.

2028 (6) The court may place conditions on release of the property as the court finds
2029 necessary and appropriate to preserve the availability of the property or the property's
2030 equivalent for forfeiture.

2031 (7) The hardship release under this section does not apply to:

2032 (a) contraband;

2033 (b) property that is subject to the retention requirements under:

2034 (i) Part 3, Retention of Property and Contraband as Evidence; or

2035 (ii) Part 4, Preservation of Biological Evidence for Violent Felony Offenses; or

2036 (c) property that is likely to be used to commit additional offenses if returned to the
2037 claimant.

2038 Section 40. Section **77-11a-504**, which is renumbered from Section 24-2-108 is
2039 renumbered and amended to read:

2040 **[~~24-2-108~~]. 77-11a-504. Release of seized property to innocent owner or interest**
2041 **holder.**

2042 (1) (a) [~~Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation, a]~~

2043 Except for property required to be retained or preserved under this chapter, a claimant alleged
2044 to be an innocent owner or an interest holder may recover possession of seized property by:
2045 (i) submitting a written request with the seizing agency before the later of:
2046 (A) the commencement of a civil asset forfeiture proceeding under Section
2047 77-11b-301; or
2048 (B) 30 days after the day on which the property was seized; and
2049 (ii) providing the seizing agency with:
2050 (A) evidence that establishes proof of ownership; and
2051 (B) a brief description of the date, time, and place that the claimant mislaid or
2052 relinquished possession of the seized property, or any evidence that the claimant is an innocent
2053 owner or an interest holder.
2054 (b) If a seizing agency receives a claim under Subsection (1)(a), the seizing agency
2055 shall issue a written response to the claimant within 30 days after the day on which the seizing
2056 agency receives the claim.
2057 (c) A response under Subsection (1)(b) from the seizing agency shall indicate whether
2058 the claim has been granted, denied on the merits, or denied for failure to provide the
2059 information required by Subsection (1)(a)(ii).
2060 (d) (i) If a seizing agency denies a claim for failure to provide the information required
2061 by Subsection (1)(a)(ii), the claimant has 15 days after the day on which the claim is denied to
2062 submit additional information.
2063 (ii) If a prosecuting attorney has not filed a civil action seeking to forfeit the property
2064 under Section 77-11b-301, and a seizing agency has denied a claim for failure to provide the
2065 information required by Subsection (1)(a)(ii), the prosecuting attorney may not commence a
2066 civil action until:
2067 (A) the claimant has submitted information under Subsection (1)(d)(i); or
2068 (B) the deadline for the claimant to submit information under Subsection (1)(d)(i) has
2069 passed.
2070 (e) If a seizing agency fails to issue a written response within 30 days after the day on
2071 which the seizing agency receives the response, the seizing agency shall return the property.
2072 (2) If a claim under Subsection (1)(a) is granted, or the property is returned because the
2073 seizing agency fails to respond within 30 days, a claimant may not receive any expenses, costs,

2074 or attorney fees for the returned property.

2075 (3) A claimant may collect reasonable attorney fees and court costs if:

2076 (a) a claimant filed a claim under Subsection (1)(a);

2077 (b) the seizing agency denies the claim on the merits; and

2078 (c) a court determines that the claimant is an innocent owner or an interest holder in a
2079 civil asset forfeiture proceeding.

2080 (4) If a court grants reasonable attorney fees and court costs, the amount of the attorney
2081 fees begins to accrue from the day on which the seizing agency denied the claim.

2082 (5) If the court grants reasonable attorney fees and court costs under Subsection (3), the
2083 attorney fees and court costs are not subject to the 50% cap under Subsection [24-4-110(2)]

2084 [77-11b-305\(2\)](#).

2085 (6) A communication between parties regarding a claim submitted under Subsection
2086 (3) and any evidence provided to the parties in connection with a claim is subject to the Utah
2087 Rules of Evidence, Rules 408 and 410.

2088 [~~(7) An agency and the prosecuting attorney may not forfeit the seized property of an
2089 innocent owner or an interest holder.~~]

2090 Section 41. Section ~~77-11a-505~~, which is renumbered from Section 24-3-104 is
2091 renumbered and amended to read:

2092 ~~[24-3-104].~~ **77-11a-505. Release of seized property to claimant when seized**
2093 **property is retained as evidence.**

2094 (1) (a) A claimant may file a petition with the court for the return of the property that is
2095 being retained as evidence in accordance with Part 3, Retention of Property and Contraband as
2096 Evidence.

2097 (b) The claimant may file the petition in:

2098 (i) the court in which criminal proceedings have commenced regarding the offense for
2099 which the property is being retained as evidence; or

2100 (ii) the district court with venue under Section [24-1-103] [77-11a-102](#) if there are no
2101 pending criminal proceedings.

2102 (c) A claimant shall serve a copy of the petition on the prosecuting attorney and the
2103 agency with custody of the property.

2104 (2) (a) The court shall provide an opportunity for an expedited hearing.

2105 (b) After the opportunity for an expedited hearing, the court may order that the property
2106 is:

2107 (i) returned to the ~~[rightful owner]~~ claimant if the claimant is the owner as determined
2108 by the court;

2109 (ii) if the offense subjecting the property to seizure results in a conviction, applied
2110 directly or by proceeds of the sale of the property toward restitution, fines, or fees owed by the
2111 ~~[rightful owner]~~ claimant in an amount set by the court;

2112 (iii) converted to a public interest use;

2113 (iv) held for further legal action;

2114 (v) sold at public auction and the proceeds of the sale applied to a public interest use;

2115 or

2116 (vi) destroyed.

2117 (3) Before the court can order property be returned to a claimant, the claimant shall
2118 establish, by clear and convincing evidence, that the claimant:

2119 (a) is the ~~[rightful]~~ owner; and

2120 (b) may lawfully possess the property.

2121 (4) If the court orders the property to be returned to the claimant, the agency with
2122 custody of the property shall return the property to the claimant as expeditiously as possible.

2123 Section 42. Section ~~77-11a-601~~, which is renumbered from Section 24-3-101.5 is
2124 renumbered and amended to read:

2125 **Part 6. Disposal of Seized Property and Contraband**

2126 ~~[24-3-101.5]~~. **77-11a-601. Applicability of this part.**

2127 The provisions of this ~~[chapter]~~ part do not apply to property or contraband:

2128 (1) ~~[that is subject to the retention requirements under Title 53, Chapter 20, Forensic
2129 Biological Evidence Preservation]~~ until the property or contraband is no longer subject to:

2130 (a) the retention requirements of Part 3, Retention of Property and Contraband as
2131 Evidence; or

2132 (b) the preservation requirements of Part 4, Preservation of Biological Evidence for
2133 Violent Felony Offenses; or

2134 (2) for which an agency has filed a notice of intent to seek forfeiture under ~~[Section
2135 24-4-103]~~ Chapter 11b, Forfeiture of Seized Property.

2136 Section 43. Section ~~77-11a-602~~, which is renumbered from Section 24-3-103 is
2137 renumbered and amended to read:

2138 ~~[24-3-103].~~ **77-11a-602. Disposition of seized property and contraband --**
2139 **Return of seized property.**

2140 (1) If a prosecuting attorney determines that seized property no longer needs to be
2141 retained ~~[for court proceedings]~~ as evidence under Section 77-11a-302, the prosecuting
2142 attorney may:

2143 (a) petition the court to apply the property that is money towards restitution, fines, fees,
2144 or monetary judgments owed by the owner of the property;

2145 (b) petition the court for an order transferring ownership of any weapons to the agency
2146 with custody for the agency's use and disposal in accordance with Section ~~[24-3-103.5]~~
2147 77-11a-603, if the owner:

2148 (i) is the individual who committed the offense for which the weapon was seized; or

2149 (ii) may not lawfully possess the weapon; or

2150 (c) notify the agency with custody of the property or contraband that:

2151 (i) the property may be returned to the ~~[rightful]~~ owner in accordance with Section
2152 77-11a-501 if the ~~[rightful]~~ owner may lawfully possess the property; or

2153 (ii) the contraband may be disposed of or destroyed.

2154 ~~[(2) The agency shall exercise due diligence in attempting to notify the rightful owner~~
2155 ~~of the property to advise the owner that the property is to be returned.]~~

2156 ~~[(3) (a) For a computer determined to be contraband, a court may order the reasonable~~
2157 ~~extraction and return of specifically described personal digital data to the rightful owner.]~~

2158 ~~[(b) The law enforcement agency shall determine a reasonable cost to extract the data.]~~

2159 ~~[(c) At the time of the request to extract the data, the owner of the computer shall pay~~
2160 ~~the agency the cost to extract the data.]~~

2161 ~~[(4) (a) Before an agency may release seized property to a person claiming ownership~~
2162 ~~of the property, the person shall establish in accordance with Subsection (4)(b) that the~~
2163 ~~person:]~~

2164 ~~[(i) is the rightful owner; and]~~

2165 ~~[(ii) may lawfully possess the property.]~~

2166 ~~[(b) The person shall establish ownership under Subsection (4)(a) by providing to the~~

2167 agency:]

2168 [(i) identifying proof or documentation of ownership of the property; or]

2169 [(ii) a notarized statement if proof or documentation is not available.]

2170 [(5) (a) When seized property is returned to the owner, the owner shall sign a receipt

2171 listing in detail the property that is returned.]

2172 [(b) The agency shall:]

2173 [(i) retain a copy of the receipt; and]

2174 [(ii) provide a copy of the receipt to the owner.]

2175 [(6)] (2) (a) Except as provided in Subsection [(6)(b)] (2)(b), if the agency is unable to

2176 locate the [rightful] owner of the property or the [rightful] owner is not entitled to lawfully

2177 possess the property, the agency may:

2178 (i) apply the property to a public interest use;

2179 (ii) sell the property at public auction and apply the proceeds of the sale to a public

2180 interest use; or

2181 (iii) destroy the property if the property is unfit for a public interest use or for sale.

2182 (b) If the property described in Subsection [(6)(a)] (2)(a) is a firearm, the agency shall

2183 dispose of the firearm in accordance with Section [24-3-103.5] [77-11a-603](#).

2184 [(7)] (3) Before applying the property or the proceeds from the sale of the property to a

2185 public interest use, the agency shall obtain from the legislative body of the agency's

2186 jurisdiction:

2187 (a) permission to apply the property or the proceeds to public interest use; and

2188 (b) the designation and approval of the public interest use of the property or the

2189 proceeds.

2190 [(8)] (4) If a peace officer seizes property that at the time of seizure is held by a pawn

2191 or secondhand business in the course of the pawn or secondhand business's business, the

2192 provisions of Section [13-32a-116](#) shall apply to the disposition of the property.

2193 Section 44. Section **77-11a-603**, which is renumbered from Section 24-3-103.5 is

2194 renumbered and amended to read:

2195 [24-3-103.5]. **77-11a-603. Disposition of firearms no longer needed as**

2196 **evidence.**

2197 (1) As used in this section:

2198 (a) "Confiscated or unclaimed firearm" means a firearm that is subject to disposal by
2199 an agency under Section [~~24-3-103~~] [77-11a-602](#) or [53-5c-202](#).

2200 (b) "Department" means the Department of Public Safety created in Section [53-1-103](#).

2201 (c) "Federally licensed firearms dealer" means a person:

2202 (i) licensed as a dealer under 18 U.S.C. Sec. 923; and

2203 (ii) engaged in the business of selling firearms.

2204 (d) "State-approved dealer" means the federally licensed firearms dealer that contracts
2205 with the department under Subsection (4).

2206 (2) An agency shall dispose of a confiscated or unclaimed firearm by:

2207 (a) selling or destroying the confiscated or unclaimed firearm in accordance with
2208 Subsection (3);

2209 (b) giving the confiscated or unclaimed firearm to the state-approved dealer to sell or
2210 destroy in accordance with Subsection (4) and the agreement between the state-approved dealer
2211 and the department; or

2212 (c) after the agency obtains approval from the legislative body of the agency's
2213 jurisdiction, transferring the confiscated or unclaimed firearm to the Bureau of Forensic
2214 Services, created in Section [53-10-401](#), for testing.

2215 (3) (a) An agency that elects to dispose of a confiscated or unclaimed firearm under
2216 Subsection (2)(a) shall:

2217 (i) sell the confiscated or unclaimed firearm to a federally licensed firearms dealer and
2218 apply the proceeds from the sale to a public interest use; or

2219 (ii) destroy the firearm, if the agency determines that:

2220 (A) the condition of a confiscated or unclaimed firearm makes the firearm unfit for
2221 sale; or

2222 (B) the confiscated or unclaimed firearm is associated with a notorious crime.

2223 (b) Before an agency applies the proceeds of a sale of a confiscated or unclaimed
2224 firearm to a public interest use, the agency shall obtain from the legislative body of the agency's
2225 jurisdiction:

2226 (i) permission to apply the proceeds of the sale to a public interest use; and

2227 (ii) the designation and approval of the public interest use to which the agency applies
2228 the proceeds.

2229 (4) (a) (i) The department shall, in accordance with Title 63G, Chapter 6a, Utah
2230 Procurement Code, contract with a federally licensed firearms dealer to sell or destroy all
2231 confiscated or unclaimed firearms in the state.

2232 (ii) The term of an agreement executed in accordance with this Subsection (4) may not
2233 exceed five years.

2234 (iii) Nothing in this Subsection (4) prevents the department from contracting with the
2235 same federally licensed firearms dealer more than once.

2236 (b) An agreement executed in accordance with Subsection (4)(a) shall:

2237 (i) address the amount of money that the federally licensed firearms dealer is entitled to
2238 retain from the sale of each confiscated or unclaimed firearm as compensation for the federally
2239 licensed firearms dealer's performance under the agreement;

2240 (ii) require the federally licensed firearms dealer to donate, on behalf of the state, all
2241 proceeds from the sale of a confiscated or unclaimed firearm, except the amount described in
2242 Subsection (4)(b)(i), to an organization that:

2243 (A) is exempt from taxation under Section 501(c)(3), Internal Revenue Code;

2244 (B) complies with any applicable licensing or registration requirements in the state;

2245 (C) primarily helps the families of law enforcement officers in the state who die in the
2246 line of duty;

2247 (D) gives financial assistance to the families of law enforcement officers in the state
2248 who die in the line of duty; and

2249 (E) provides other assistance to children of active law enforcement officers, including
2250 scholarships;

2251 (iii) state that if the federally licensed firearms dealer determines that the condition of a
2252 confiscated or unclaimed firearm makes the firearm unfit for sale, the federally licensed
2253 firearms dealer shall destroy the firearm; and

2254 (iv) provide a procedure by which the department can ensure that the federally licensed
2255 firearms dealer complies with the provisions of the agreement and applicable law.

2256 Section 45. Section **77-11b-101** is enacted to read:

2257 **CHAPTER 11b. FORFEITURE OF SEIZED PROPERTY**

2258 **Part 1. General Provisions**

2259 **77-11b-101. Definitions.**

- 2260 As used in this chapter:
- 2261 (1) (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not
- 2262 guilty.
- 2263 (b) "Acquitted" does not include:
- 2264 (i) a verdict of guilty on a lesser or reduced charge;
- 2265 (ii) a plea of guilty to a lesser or reduced charge; or
- 2266 (iii) dismissal of a charge as a result of a negotiated plea agreement.
- 2267 (2) "Agency" means the same as that term is defined in Section [77-11a-101](#).
- 2268 (3) "Claimant" means the same as that term is defined in Section [77-11a-101](#).
- 2269 (4) "Commission" means the State Commission on Criminal and Juvenile Justice
- 2270 created in Section [63M-7-201](#).
- 2271 (5) "Complaint" means a civil or criminal complaint seeking the forfeiture of any
- 2272 property under this chapter.
- 2273 (6) "Forfeit" means to divest a claimant of an ownership interest in property seized
- 2274 under this title.
- 2275 (7) "Innocent owner" means the same as that term is defined in Section [77-11a-101](#).
- 2276 (8) "Interest holder" means the same as that term is defined in Section [77-11a-101](#).
- 2277 (9) "Known address" means:
- 2278 (a) any address provided by a claimant to the peace officer or agency at the time the
- 2279 property is seized; or
- 2280 (b) the claimant's most recent address on record with a governmental entity if no
- 2281 address was provided at the time of the seizure.
- 2282 (10) "Legal costs" means the costs and expenses incurred by a party in a forfeiture
- 2283 action.
- 2284 (11) "Legislative body" means the same as that term is defined in Section [77-11a-101](#).
- 2285 (12) "Peace officer" means the same as that term is defined in Section [77-11a-101](#).
- 2286 (13) "Proceeds" means the same as that term is defined in Section [77-11a-101](#).
- 2287 (14) "Program" means the State Asset Forfeiture Grant Program created in Section
- 2288 [77-11b-403](#).
- 2289 (15) "Property" means the same as that term is defined in Section [77-11a-101](#).
- 2290 (16) "Prosecuting attorney" means the same as that term is defined in Section

2291 [77-11a-101](#).

2292 (17) "Seized property" means the same as that term is defined in Section [77-11a-101](#).

2293 Section 46. Section **77-11b-102**, which is renumbered from Section 24-4-102 is
2294 renumbered and amended to read:

2295 ~~[24-4-102]~~. **77-11b-102. Property subject to forfeiture.**

2296 (1) (a) Except as provided in Subsection (2), (3), or (4), an agency may seek to forfeit:

2297 ~~[(a)]~~ (i) seized property that was used to facilitate the commission of an offense that is
2298 a violation of federal or state law; ~~[and]~~ or

2299 ~~[(b)]~~ (ii) seized proceeds.

2300 (b) An agency, or the prosecuting attorney, may not forfeit the seized property of an
2301 innocent owner or an interest holder.

2302 (2) If seized property is used to facilitate an offense that is a violation of Section
2303 [76-10-1204](#), [76-10-1205](#), [76-10-1206](#), or [76-10-1222](#), an agency may not forfeit the property if
2304 the forfeiture would constitute a prior restraint on the exercise of an affected party's rights
2305 under the First Amendment to the Constitution of the United States or Utah Constitution,
2306 Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's
2307 rights under the First Amendment to the Constitution of the United States or Utah Constitution,
2308 Article I, Section 15.

2309 (3) If a motor vehicle is used in an offense that is a violation of Section [41-6a-502](#),
2310 [41-6a-517](#), a local ordinance that complies with the requirements of Subsection [41-6a-510\(1\)](#),
2311 Subsection [76-5-102.1\(2\)\(b\)](#), or Section [76-5-207](#), an agency may not seek forfeiture of the
2312 motor vehicle, unless:

2313 (a) the operator of the vehicle has previously been convicted of an offense committed
2314 after May 12, 2009, that is:

2315 (i) a felony driving under the influence violation under Section [41-6a-502](#) or
2316 Subsection [76-5-102.1\(2\)\(a\)](#);

2317 (ii) a felony violation under Subsection [76-5-102.1\(2\)\(b\)](#);

2318 (iii) a violation under Section [76-5-207](#); or

2319 (iv) operating a motor vehicle with any amount of a controlled substance in an
2320 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
2321 Laws of Utah 2021, Chapter 236, Section 1, Subsection [58-37-8\(2\)\(g\)](#); or

2322 (b) the operator of the vehicle was driving on a denied, suspended, revoked, or
2323 disqualified license and:

2324 (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii)
2325 was imposed because of a violation under:

2326 (A) Section 41-6a-502;

2327 (B) Section 41-6a-517;

2328 (C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

2329 (D) Section 41-6a-520;

2330 (E) operating a motor vehicle with any amount of a controlled substance in an
2331 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
2332 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

2333 (F) Section 76-5-102.1;

2334 (G) Section 76-5-207; or

2335 (H) a criminal prohibition as a result of a plea bargain after having been originally
2336 charged with violating one or more of the sections or ordinances described in Subsections
2337 (3)(b)(i)(A) through (G); or

2338 (ii) the denial, suspension, revocation, or disqualification described in [~~Subsections~~
2339 ~~(3)(b)(i)(A) through (H)~~] Subsection (3)(b)(i):

2340 (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension,
2341 revocation, or disqualification; and

2342 (B) the original denial, suspension, revocation, or disqualification was imposed
2343 because of a violation described in [~~Subsections (3)(b)(i)(A) through (H)~~] Subsection (3)(b)(i).

2344 (4) If a peace officer seizes property incident to an arrest solely for possession of a
2345 controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection 58-37-8(2)(b)(i), an
2346 agency may not seek to forfeit the property that was seized in accordance with the arrest.

2347 Section 47. Section 77-11b-103, which is renumbered from Section 24-4-106 is
2348 renumbered and amended to read:

2349 ~~[24-4-106]~~. 77-11b-103. Trial by jury.

2350 The right to trial by jury applies to forfeiture proceedings under this chapter.

2351 Section 48. Section 77-11b-104 is enacted to read:

2352 77-11b-104. Venue.

2353 Notwithstanding Title 78B, Chapter 3, Part 3, Place of Trial -- Venue, or any other
2354 provision of law, a person may bring an action or proceeding under this chapter in the judicial
2355 district in which:

2356 (1) the property is seized;

2357 (2) any part of the property is found; or

2358 (3) a civil or criminal action could be maintained against a claimant for the offense
2359 subjecting the property to forfeiture under this chapter.

2360 Section 49. Section **77-11b-105**, which is renumbered from Section 24-4-119 is
2361 renumbered and amended to read:

2362 ~~[24-4-119]~~. **77-11b-105. Training requirements.**

2363 (1) As used in this section:

2364 (a) "Council" means the Utah Prosecution Council created in Section [67-5a-1](#).

2365 (b) "Division" means the Peace Officers Standards and Training Division created in
2366 Section [53-6-103](#).

2367 (2) To participate in the program, an agency shall have at least one employee who is
2368 certified by the division as an asset forfeiture specialist through the completion of an online
2369 asset forfeiture course by the division.

2370 (3) The division shall:

2371 (a) develop an online asset forfeiture specialist course that is available to an agency for
2372 certification purposes;

2373 (b) certify an employee of an agency who meets the course requirements to be an asset
2374 forfeiture specialist;

2375 (c) recertify, every 36 months, an employee who is designated as an asset forfeiture
2376 specialist by an agency;

2377 (d) submit annually a report to the commission no later than April 30 that contains a
2378 list of the names of the employees and agencies participating in the certification courses;

2379 (e) review and update the asset forfeiture specialist course each year to comply with
2380 state and federal law; and

2381 (f) provide asset forfeiture training to all peace officers in basic training programs.

2382 (4) To be reimbursed for costs under Subsection ~~[24-4-115(3)(b)]~~ [77-11b-401\(3\)\(b\)](#), a
2383 prosecuting agency shall have at least one employee who is certified by the council as an asset

2384 forfeiture specialist through the completion of an online asset forfeiture course.

2385 (5) The council shall:

2386 (a) develop an online asset forfeiture specialist course that is available to a prosecuting
2387 agency for certification purposes;

2388 (b) certify an employee of a prosecuting agency who meets the course requirements to
2389 be an asset forfeiture specialist;

2390 (c) submit annually a report to the commission no later than April 30 that contains a
2391 list of the names of the employees and prosecuting agencies participating in certification
2392 courses by the council; and

2393 (d) review and update the asset forfeiture specialist course each year to comply with
2394 state and federal law.

2395 Section 50. Section ~~77-11b-201~~, which is renumbered from Section 24-4-103 is
2396 renumbered and amended to read:

2397 **Part 2. Initiating Forfeiture of Seized Property**

2398 ~~[24-4-103]~~. 77-11b-201. Initiating forfeiture proceedings -- Notice of intent to
2399 seek forfeiture.

2400 (1) (a) If an agency seeks to forfeit [~~property seized under this title~~] seized property, the
2401 agency shall serve a notice of intent to seek forfeiture to any known claimant within 30 days
2402 after the day on which the property is seized.

2403 (b) The notice of intent to seek forfeiture shall describe:

2404 (i) the date of the seizure;

2405 (ii) the property seized;

2406 (iii) the claimant's rights and obligations under this chapter and Chapter 11a, Seizure
2407 and Retention of Property and Contraband, including the availability of hardship relief in
2408 appropriate circumstances; and

2409 (iv) the statutory basis for the forfeiture, including the judicial proceedings by which
2410 the property may be forfeited under this chapter.

2411 (c) The agency shall serve the notice of intent to seek forfeiture by:

2412 (i) certified mail, with a return receipt requested, to the claimant's known address; or

2413 (ii) personal service.

2414 (d) A court may void a forfeiture made without notice under Subsection (1)(a), unless

2415 the agency demonstrates:

2416 (i) good cause for the failure to give notice to the claimant; or

2417 (ii) that the claimant had actual notice of the seizure.

2418 (2) Before an agency serves a notice of intent to forfeit seized property under

2419 Subsection (1)(a), the agency shall conduct a search of public records applicable to the seized

2420 property, including county records or records of the Division of Corporations and Commercial

2421 Code, the Division of Motor Vehicles, or other state or federal licensing agencies, in order to

2422 obtain the name and address of each interest holder of the property.

2423 (3) If an agency serves a notice of intent to forfeit seized property under Subsection

2424 (1)(a), an individual or entity may not alienate, convey, sequester, or attach the property until a

2425 court:

2426 (a) issues a final order to dismiss an action under this [title] chapter; or

2427 (b) orders the forfeiture of the property.

2428 (4) (a) (i) If an agency has served each claimant with a notice of intent to seek

2429 forfeiture, the agency shall present a written request for forfeiture to the prosecuting attorney of

2430 the municipality or county where the property is seized.

2431 (ii) The agency shall provide the request under Subsection (4)(a)(i) no later than 45

2432 days after the day on which the property is seized.

2433 (b) The written request described in Subsection (4)(a) shall:

2434 (i) describe the property that the agency is seeking to forfeit; and

2435 (ii) include a copy of all reports, supporting documents, and other evidence that is

2436 necessary for the prosecuting attorney to determine the legal sufficiency for filing a forfeiture

2437 action.

2438 (c) The prosecuting attorney shall:

2439 (i) review the written request described in Subsection (4)(a)(i); and

2440 (ii) within 75 days after the day on which the property is seized, decline or accept, in

2441 writing, the agency's written request for the prosecuting attorney to initiate a proceeding to

2442 forfeit the property.

2443 Section 51. Section **77-11b-202**, which is renumbered from Section 24-4-103.3 is

2444 renumbered and amended to read:

2445 ~~[24-4-103.3]~~. **77-11b-202. Sale of seized property subject to forfeiture.**

2446 (1) (a) [~~Subject to Subsection (2) and Title 53, Chapter 20, Forensic Biological~~
2447 ~~Evidence Preservation~~] Except for property that is required to be retained or preserved under
2448 Chapter 11a, Seizure and Retention of Property and Contraband, the court may order seized
2449 property[;] for which a forfeiture proceeding is pending[;] to:

2450 (i) be sold, leased, rented, or operated to satisfy a specified interest of any claimant; or
2451 (ii) preserve the interests of any party on motion of that party.

2452 (b) The court may only enter an order under Subsection (1)(a) after:

2453 (i) written notice to any person known to have an interest in the property has been
2454 given; and

2455 (ii) an opportunity for a hearing for any person known to have an interest in the
2456 property has occurred.

2457 (2) (a) A court may order a sale of property under Subsection (1) when:

2458 (i) the property is liable to perish, waste, or be significantly reduced in value; or

2459 (ii) the expenses of maintaining the property are disproportionate to the property's
2460 value.

2461 (b) A third party designated by the court shall:

2462 (i) dispose of the property by a commercially reasonable public sale; and

2463 (ii) distribute the proceeds in the following order of priority:

2464 (A) first, for the payment of reasonable expenses incurred in connection with the sale;

2465 (B) second, for the satisfaction of an interest, including an interest of an interest holder,
2466 in the order of an interest holder's priority as determined by Title 70A, Uniform Commercial
2467 Code; and

2468 (C) third, any balance of the proceeds shall be preserved in the actual or constructive
2469 custody of the court, in an interest-bearing account, subject to further proceedings under this
2470 chapter.

2471 Section 52. Section **77-11b-203**, which is renumbered from Section 24-4-103.5 is
2472 renumbered and amended to read:

2473 ~~[24-4-103.5]~~. **77-11b-203. Mandatory return of seized property subject to**
2474 **forfeiture.**

2475 (1) [~~Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation~~]

2476 Except for property that is required to be retained or preserved under Chapter 11a, Seizure and

2477 Retention of Property and Contraband, an agency shall promptly return [~~property seized under~~
 2478 ~~this title;~~] seized property to a claimant and the prosecuting attorney may take no further action
 2479 to forfeit the property, unless within 75 days after the day on which the property is seized:

2480 (a) the prosecuting attorney:

2481 (i) files a criminal indictment or information under Subsection [~~24-4-105(3)~~]

2482 77-11b-301(3);

2483 (ii) files a petition to transfer the property to another agency in accordance with Section
 2484 [~~24-2-105~~] 77-11a-205; or

2485 (iii) files a civil forfeiture complaint under Section [~~24-4-104~~] 77-11b-302; or

2486 (b) the prosecuting attorney or a federal prosecutor obtains a restraining order under
 2487 Subsection [~~24-4-105(4)~~] 77-11b-301(4).

2488 (2) (a) The prosecuting attorney may file a petition to extend the deadline under
 2489 Subsection (1) by 21 days.

2490 (b) If a prosecuting attorney files a petition under Subsection (2)(a)[~~;~~] and the
 2491 prosecuting attorney provides good cause for extending the deadline, a court shall grant the
 2492 petition.

2493 (c) The prosecuting attorney may not file more than one petition under this Subsection
 2494 (2).

2495 (3) If a prosecuting attorney is unable to file a civil forfeiture complaint under
 2496 Subsection (1)(a)(iii) because a claimant has filed a claim under Section [~~24-2-108~~] 77-11a-504
 2497 and the claimant has an extension to provide additional information on the claim under
 2498 Subsection [~~24-2-108(1)(d)~~] 77-11a-504(1)(d), the deadline under Subsection (1) may be
 2499 extended by 15 days.

2500 Section 53. Section **77-11b-204**, which is renumbered from Section 24-4-111 is
 2501 renumbered and amended to read:

2502 [~~24-4-111~~]. **77-11b-204. Compensation for damaged property subject to**
 2503 **forfeiture.**

2504 (1) As used in this section, "damage or other injury" does not mean normal
 2505 depreciation, deterioration, or ordinary wear and tear of the property.

2506 (2) If seized property is returned under this chapter, a claimant has a civil right of
 2507 action against an agency for a claim based upon the negligent destruction, loss, or damage or

2508 other injury to seized property while in the possession or custody of the agency.

2509 Section 54. Section **77-11b-301**, which is renumbered from Section 24-4-105 is
2510 renumbered and amended to read:

2511 **Part 3. Forfeiture Proceedings**

2512 ~~[24-4-105]~~. **77-11b-301. Forfeiture of seized property through the criminal case.**

2513 (1) As used in this section, "defendant" means a claimant who is criminally prosecuted
2514 for the offense subjecting the property to forfeiture under Subsection ~~[24-4-102(1)]~~
2515 77-11b-102(1).

2516 (2) A prosecuting attorney may seek forfeiture of the defendant's interest in seized
2517 property through the criminal case.

2518 (3) If the prosecuting attorney seeks forfeiture of a defendant's interest in seized
2519 property through the criminal case, the prosecuting attorney shall state in the information or
2520 indictment the grounds for which the agency seeks to forfeit the property.

2521 (4) (a) (i) A court may enter a restraining order or injunction or take any other
2522 reasonable action to preserve property being forfeited under this section.

2523 (ii) Before a court's decision under Subsection (4)(a)(i), a known claimant, who can be
2524 identified after due diligence, shall be:

2525 (A) provided notice; and

2526 (B) given an opportunity for a hearing.

2527 (iii) A court shall grant an order under Subsection (4)(a)(i) if:

2528 (A) there is a substantial probability that the state will prevail on the issue of forfeiture
2529 and that failure to enter the order will result in the property being sold, transferred, destroyed,
2530 or removed from the jurisdiction of the court or otherwise made unavailable for forfeiture; and

2531 (B) the need to preserve the availability of the property or prevent the property's sale,
2532 transfer, destruction, or removal through the entry of the requested order outweighs the
2533 hardship against a claimant against which the order is to be entered.

2534 (b) A court may enter a temporary restraining order ex parte upon application of the
2535 prosecuting attorney or a federal prosecutor before or after an information or indictment has
2536 been filed, with respect to the property, if the prosecuting attorney or federal prosecutor
2537 demonstrates that:

2538 (i) there is probable cause to believe that the property with respect to which the order is

2539 sought would, in the event of a conviction, be forfeited under this section; and

2540 (ii) providing notice to a claimant would jeopardize the availability of the property for
2541 forfeiture or would jeopardize an ongoing criminal investigation.

2542 (c) The temporary order expires no more than 10 days after the day on which the order
2543 is entered unless extended for good cause shown or unless the claimant against whom the
2544 temporary order is entered consents to an extension.

2545 (d) After service of the temporary order upon a claimant known to the prosecuting
2546 attorney or federal prosecutor, the court shall hold a hearing on the order as soon as practicable
2547 and before the expiration of the temporary order.

2548 (e) The court is not bound by the Utah Rules of Evidence regarding evidence the court
2549 may receive and consider at a hearing under this section.

2550 (5) Upon conviction of a defendant for the offense subjecting the property to forfeiture,
2551 a court or jury shall find property forfeited to the state if the prosecuting attorney establishes,
2552 beyond a reasonable doubt, that:

2553 (a) the defendant:

2554 (i) committed the offense subjecting the property to forfeiture under Subsection

2555 ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#);

2556 (ii) knew of the offense subjecting the property to forfeiture under Subsection

2557 ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#) and allowed the property to be used in furtherance of the offense;

2558 or

2559 (iii) acquired the property at the time of the offense subjecting the property to forfeiture
2560 under Subsection ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#), or within a reasonable time after the offense
2561 occurred; or

2562 (b) there is no likely source for the purchase or acquisition of the property other than
2563 the commission of the offense subjecting the property to forfeiture under Subsection
2564 ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#).

2565 (6) (a) Upon conviction of a defendant for the offense subjecting the property to
2566 forfeiture and a finding by a court or jury that the property is forfeited, the court shall enter a
2567 judgment and order the property forfeited to the state upon the terms stated by the court in the
2568 court's order.

2569 (b) Following the entry of an order declaring the property forfeited under Subsection

2570 (6)(a), and upon application by the prosecuting attorney, the court may:

2571 (i) enter a restraining order or injunction;

2572 (ii) require the execution of satisfactory performance bonds;

2573 (iii) appoint a receiver, conservator, appraiser, accountant, or trustee; or

2574 (iv) take any other action to protect the state's interest in property ordered forfeited.

2575 (7) (a) (i) After property is ordered forfeited under this section, the agency shall direct
2576 the disposition of the property under Section [~~24-4-115~~] [77-11b-401](#).

2577 (ii) If property under Subsection (7)(a)(i) is not transferrable for value to the agency, or
2578 the agency is not able to exercise an ownership interest in the property, the property may not
2579 revert to the defendant.

2580 (iii) A defendant, or a person acting in concert with or on behalf of the defendant, is
2581 not eligible to purchase forfeited property at any sale held by the agency unless approved by the
2582 judge.

2583 (b) A court may stay the sale or disposition of the property pending the conclusion of
2584 any appeal of the offense subjecting the property to forfeiture if the claimant demonstrates that
2585 proceeding with the sale or disposition of the property may result in irreparable injury, harm, or
2586 loss.

2587 (8) If a defendant is acquitted of the offense subjecting the property to forfeiture under
2588 this section on the merits:

2589 (a) (i) the property for which forfeiture is sought shall be returned to the claimant; or

2590 (ii) the open market value of the property for the property for which forfeiture is sought
2591 shall be awarded to the claimant if the property has been disposed of under Section
2592 [~~24-4-103.3~~] [77-11b-202](#); and

2593 (b) any payment requirement under this chapter related to the holding of property shall
2594 be paid to the claimant.

2595 (9) Except as provided under Subsection (4) or (12), a claimant claiming an interest in
2596 property that is being forfeited under this section:

2597 (a) may not intervene in a trial or appeal of a criminal case involving the forfeiture of
2598 the property; and

2599 (b) may not commence an action at law or equity concerning the validity of the
2600 claimant's alleged interests in the property subsequent to the filing of an indictment or an

2601 information alleging that the property is being forfeited under this section.

2602 (10) A court that has jurisdiction of a case under this part may enter orders under this
2603 section without regard to the location of any property that is or has been ordered forfeited under
2604 this section.

2605 (11) To facilitate the identification or location of property forfeited under this section,
2606 and to facilitate the disposition of a petition for remission or mitigation of forfeiture after the
2607 entry of an order declaring property forfeited to the agency, the court may, upon application of
2608 the prosecuting attorney, order:

2609 (a) the testimony of any witness relating to the forfeited property be taken by
2610 deposition; and

2611 (b) any book, paper, document, record, recording, or other material is produced in
2612 accordance with the Utah Rules of Civil Procedure.

2613 (12) (a) If a court orders property forfeited under this section, the prosecuting attorney
2614 shall publish notice of the intent to dispose of the property.

2615 (b) Service by publication shall be by publication of two notices, in two successive
2616 weeks, of the forfeiture proceeding:

2617 (i) in a newspaper of general circulation in the county in which the seizure of the
2618 property occurred; and

2619 (ii) on Utah's Public Legal Notice Website established in Subsection [45-1-101\(2\)\(b\)](#).

2620 (c) The prosecuting attorney shall also send written notice to any claimants, other than
2621 the defendant, known to the prosecuting attorney to have an interest in the property, at the
2622 claimant's known address.

2623 (13) (a) A claimant, other than the defendant, may petition the court for a hearing to
2624 adjudicate the validity of the claimant's alleged interest in property forfeited under this section.

2625 (b) A claimant shall file a petition within 30 days after the earlier of the day on which a
2626 notice is published or the day on which the claimant receives written notice under Subsection
2627 (12)(a).

2628 (14) The petition under Subsection (13) shall:

2629 (a) be in writing and signed by the claimant under penalty of perjury;

2630 (b) set forth the nature and extent of the claimant's right, title, or interest in the
2631 property, the time and circumstances of the claimant's acquisition of the right, title, or interest

2632 in the property; and

2633 (c) set forth any additional facts supporting the claimant's claim and the relief sought.

2634 (15) (a) The court shall expedite the trial or hearing under this Subsection (15) to the
2635 extent practicable.

2636 (b) Any party may request a jury to decide any genuine issue of material fact.

2637 (c) The court may consolidate a trial or hearing on the petition under Subsection
2638 (11)(b) and any other petition filed by a claimant, other than the defendant, under this section.

2639 (d) For a petition under this section, the court shall permit the parties to conduct
2640 pretrial discovery in accordance with the Utah Rules of Civil Procedure.

2641 (e) (i) At the trial or hearing, the claimant may testify and present evidence and
2642 witnesses on the claimant's own behalf and cross-examine witnesses who appear at the hearing.

2643 (ii) The prosecuting attorney may present evidence and witnesses in rebuttal and in
2644 defense of the claim to the property and cross-examine witnesses who appear.

2645 (f) In addition to testimony and evidence presented at the trial or hearing, the court may
2646 consider the relevant portion of the record of the criminal case that resulted in the order of
2647 forfeiture.

2648 (g) A trial or hearing shall be conducted in accordance with the Utah Rules of
2649 Evidence.

2650 (16) The court shall amend the order of forfeiture in accordance with the court's
2651 determination, if after the trial or hearing under Subsection (15), the court or jury determines
2652 that the claimant has established, by a preponderance of the evidence, that:

2653 (a) (i) the claimant has a legal right, title, or interest in the property; and

2654 (ii) the claimant's right, title, or interest renders the order of forfeiture invalid in whole
2655 or in part because the right, title, or interest was vested in the claimant rather than the
2656 defendant, or was superior to any right, title, or interest of the defendant at the time of the
2657 commission of the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~]

2658 77-11b-102(1); or

2659 (b) the claimant acquired the right, title, or interest in the property in a bona fide
2660 transaction for value, and, at the time of acquisition, the claimant did not know that the
2661 property could be forfeited under this chapter.

2662 (17) An agency has clear title to the property and may transfer title to a purchaser or

2663 transferee if:

2664 (a) the court issued a disposition on all petitions under Subsection (13) denying any
2665 claimant's right, title, or interest to the property; or

2666 (b) a petition was not filed under the timelines provided in Subsection (13)(b).

2667 (18) If the prosecuting attorney seeks to discontinue a forfeiture proceeding under this
2668 section and transfer the action to another state or federal agency that has initiated a civil or
2669 criminal proceeding involving the same property, the prosecuting attorney shall file a petition
2670 to transfer the property in accordance with Section ~~[24-2-105]~~ [77-11a-205](#).

2671 Section 55. Section **77-11b-302**, which is renumbered from Section 24-4-104 is
2672 renumbered and amended to read:

2673 ~~[24-4-104]~~. **77-11b-302. Civil forfeiture of seized property.**

2674 (1) (a) A prosecuting attorney may commence a civil action to forfeit seized property
2675 by filing a complaint.

2676 (b) The complaint under Subsection (1)(a) shall describe with reasonable particularity:

2677 (i) the property that the agency is seeking to forfeit;

2678 (ii) the date and place of seizure; and

2679 (iii) the factual allegations that constitute a basis for forfeiture.

2680 (2) (a) After a complaint is filed, the prosecuting attorney shall serve a copy of the
2681 complaint and summons upon each claimant known to the prosecuting attorney within 30 days
2682 after the day on which the complaint is filed.

2683 (b) The prosecuting attorney is not required to serve a copy of the complaint or the
2684 summons upon a claimant which has disclaimed, in writing, an ownership interest in the seized
2685 property.

2686 (c) Service of the complaint and summons shall be by:

2687 (i) personal service;

2688 (ii) certified mail, with a return receipt requested, to the claimant's known address; or

2689 (iii) service by publication, if the prosecuting attorney demonstrates to the court that
2690 service cannot reasonably be made by personal service or certified mail.

2691 (d) Service by publication shall be by publication of two notices, in two successive
2692 weeks, of the forfeiture proceeding:

2693 (i) in a newspaper of general circulation in the county in which the seizure occurred;

2694 and

2695 (ii) on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b).

2696 (e) Service is effective upon the earlier of:

2697 (i) personal service;

2698 (ii) certified mail; or

2699 (iii) publication in accordance with Subsection (2)(d).

2700 (f) The court may extend the period to complete service under this section for an
2701 additional 60 days if the prosecuting attorney:

2702 (i) moves the court to extend the period to complete service; and

2703 (ii) has shown good cause for extending service.

2704 (3) (a) If a prosecuting attorney files a complaint for forfeiture as described in
2705 Subsection (1), a claimant may file an answer to the complaint.

2706 (b) If a claimant files an answer in accordance with Subsection (3)(a), the claimant
2707 shall file the answer within 30 days after the day on which the complaint is served upon the
2708 claimant.

2709 (c) If an agency is seeking to forfeit property [~~under Section 24-4-103 and the property~~]
2710 that is valued at less than \$10,000, the agency shall return the property to the claimant if:

2711 (i) (A) the prosecuting attorney has filed a forfeiture complaint, and the claimant has
2712 filed an answer, in accordance with Subsections (3)(a) and (b); and

2713 (B) the prosecuting attorney has not filed an information or indictment for the offense
2714 for which the property is seized within 60 days after the day on which the prosecuting attorney
2715 served the claimant with the complaint, or the prosecuting attorney has not timely moved a
2716 court and demonstrated reasonable cause for extending the time to file the information or
2717 indictment; or

2718 (ii) the information or indictment for the offense for which the property was seized was
2719 dismissed and the prosecuting attorney has not refiled the information or indictment within
2720 seven days after the day on which the information or indictment was dismissed.

2721 (d) A claimant is not entitled to any expenses, costs, or attorney fees for the return of
2722 property to the claimant under Subsection (3)(c).

2723 (e) (i) The time limitations in Subsection (3)(c)(i) may be extended for up to 15 days if
2724 a claimant timely seeks to recover possession of seized property in accordance with Section

2725 [~~24-2-108~~] [77-11a-504](#).

2726 (ii) If the time limitations are extended under Subsection (3)(c)(i), the time limitations
2727 in Subsection (3)(c)(i) shall resume immediately upon the agency's or prosecuting attorney's
2728 timely denial of a claim under Section [~~24-2-108~~] [77-11a-504](#) on the merits.

2729 (4) Except as otherwise provided in this chapter, a civil action for a forfeiture
2730 proceeding is governed by the Utah Rules of Civil Procedure.

2731 (5) The court shall:

2732 (a) take all reasonable steps to expedite a civil forfeiture proceeding; and

2733 (b) give a civil forfeiture proceeding the same priority as a criminal case.

2734 (6) A claimant may file an answer to a complaint for civil forfeiture without posting
2735 bond with respect to the property that the agency seeks to forfeit.

2736 (7) A court shall grant an agency's request to forfeit property if the prosecuting attorney
2737 establishes, by clear and convincing evidence, that:

2738 (a) the claimant:

2739 (i) committed the offense subjecting the property to forfeiture under Subsection
2740 [~~24-4-102(1)~~] [77-11b-102\(1\)](#);

2741 (ii) knew of the offense subjecting the property to forfeiture under Subsection
2742 [24-4-102\(1\)](#) and allowed the property to be used in furtherance of the offense; or

2743 (iii) acquired the property at the time of the offense subjecting the property to forfeiture
2744 under Subsection [~~24-4-102(1)~~] [77-11b-102\(1\)](#), or within a reasonable time after the offense
2745 occurred; or

2746 (b) there is no likely source for the purchase or acquisition of the property other than
2747 the commission of the offense subjecting the property to forfeiture under Subsection
2748 [~~24-4-102(1)~~] [77-11a-102\(1\)](#).

2749 (8) If a court finds that the property is the proceeds of an offense that subjects the
2750 proceeds to forfeiture under Subsection [~~24-4-102(1)~~] [77-11b-102\(1\)](#), the prosecuting attorney
2751 does not need to prove that the property was the proceeds of a particular exchange or
2752 transaction.

2753 (9) If a claimant is acquitted of the offense subjecting the property to forfeiture under
2754 this section:

2755 (a) (i) the property for which forfeiture is sought shall be returned to the claimant; or

2756 (ii) the open market value of the property for the property for which forfeiture is sought
2757 shall be awarded to the claimant if the property has been disposed of under Section
2758 ~~[24-4-103-3]~~ [77-11b-202](#); and

2759 (b) any payment requirement under this chapter related to the holding of property shall
2760 be paid to the claimant.

2761 (10) If the prosecuting attorney seeks to discontinue a forfeiture proceeding under this
2762 section and transfer the action to another state or federal agency that has initiated a civil or
2763 criminal proceeding involving the same property, the prosecuting attorney shall file a petition
2764 to transfer the property in accordance with Section ~~[24-2-105]~~ [77-11a-205](#).

2765 (11) A civil forfeiture action under this section may be converted to a criminal
2766 forfeiture action at any time after a prosecuting attorney files a criminal complaint, information,
2767 or indictment for the offense subjecting the property to forfeiture under Subsection
2768 ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#).

2769 Section 56. Section **77-11b-303**, which is renumbered from Section 24-4-113 is
2770 renumbered and amended to read:

2771 ~~[24-4-113]~~. **77-11b-303. Proportionality of forfeiture.**

2772 (1) (a) A claimant's interest in property that is used to facilitate an offense may not be
2773 forfeited under any provision of state law if the forfeiture is substantially disproportionate to
2774 the use of the property in committing or facilitating an offense that is a violation of state law
2775 and the value of the property.

2776 (b) If property is used solely in a manner that is merely incidental and not instrumental
2777 to the commission or facilitation of an offense, a forfeiture of the property is not proportional.

2778 (2) (a) In determining proportionality, the court shall consider:

2779 (i) the offense subjecting the property to forfeiture under Subsection ~~[24-4-102(1)]~~
2780 [77-11b-102\(1\)](#);

2781 (ii) what portion of the forfeiture, if any, is remedial in nature;

2782 (iii) the gravity of the conduct for which the claimant is responsible in light of the
2783 offense; and

2784 (iv) the value of the property.

2785 (b) If the court finds that the forfeiture is substantially disproportionate to an offense for
2786 which the claimant is responsible, the court shall reduce or eliminate the forfeiture as the court

2787 finds appropriate.

2788 (3) A prosecuting attorney has the burden of demonstrating that a forfeiture is
2789 proportional to the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~
2790 77-11b-102(1)].

2791 (4) In all cases, the court shall decide questions of proportionality.

2792 (5) A forfeiture of any proceeds used to facilitate the commission of an offense that is a
2793 violation of federal or state law is proportional.

2794 Section 57. Section ~~77-11b-304~~, which is renumbered from Section 24-4-109 is
2795 renumbered and amended to read:

2796 [~~24-4-109~~]. 77-11b-304. **Postjudgment interest to prevailing party in forfeiture**
2797 **proceeding.**

2798 In a proceeding to forfeit currency or other negotiable instruments under this chapter,
2799 the court shall award postjudgment interest to a prevailing party on the currency or negotiable
2800 instruments at the interest rate established under Section 15-1-4.

2801 Section 58. Section ~~77-11b-305~~, which is renumbered from Section 24-4-110 is
2802 renumbered and amended to read:

2803 [~~24-4-110~~]. 77-11b-305. **Attorney fees and costs for forfeiture proceeding.**

2804 (1) In a forfeiture proceeding under this chapter, a court shall award reasonable legal
2805 costs and attorney fees to a prevailing claimant.

2806 (2) If a court awards legal costs and attorney fees to a prevailing claimant under
2807 Subsection (1), the award may not exceed 50% of the value of the seized property.

2808 (3) A claimant who prevails only in part is entitled to recover reasonable legal costs
2809 and attorney fees only on an issue on which the party prevailed.

2810 Section 59. Section ~~77-11b-306~~, which is renumbered from Section 24-4-112 is
2811 renumbered and amended to read:

2812 [~~24-4-112~~]. 77-11b-306. **Limitation on fees for holding seized property subject**
2813 **to forfeiture.**

2814 In any civil or criminal proceeding under this [~~chapter~~] part in which a judgment is
2815 entered in favor of a claimant, or where a forfeiture proceeding against a claimant is voluntarily
2816 dismissed by the prosecuting attorney, an agency may not charge a claimant any fee or cost for
2817 holding seized property.

2818 Section 60. Section **77-11b-401**, which is renumbered from Section 24-4-115 is
2819 renumbered and amended to read:

2820 **Part 4. Disposal and Allocation of Forfeited Property**

2821 ~~[24-4-115]~~. **77-11b-401. Disposition and allocation of forfeited property.**

2822 (1) If a court finds that property is forfeited under this chapter, the court shall order the
2823 property forfeited to the state.

2824 (2) (a) If the property is not currency, the agency shall authorize a public or otherwise
2825 commercially reasonable sale of that property if the property is not required by law to be
2826 destroyed and is not harmful to the public.

2827 (b) If the property forfeited is an alcoholic product as defined in Section [32B-1-102](#),
2828 the property shall be disposed of as follows:

2829 (i) an alcoholic product shall be sold if the alcoholic product is:

2830 (A) unadulterated, pure, and free from any crude, unrectified, or impure form of ethylic
2831 alcohol, or any other deleterious substance or liquid; and

2832 (B) otherwise in saleable condition; or

2833 (ii) an alcoholic product and the alcoholic product's package shall be destroyed if the
2834 alcoholic product is impure, adulterated, or otherwise unfit for sale.

2835 (c) If the property forfeited is a cigarette or other tobacco product as defined in Section
2836 [59-14-102](#), the property shall be destroyed, except that the lawful holder of the trademark rights
2837 in the cigarette or tobacco product brand is permitted to inspect the cigarette before the
2838 destruction of the cigarette or tobacco product.

2839 (d) The proceeds of the sale of forfeited property shall remain segregated from other
2840 property, equipment, or assets of the agency until transferred in accordance with this chapter.

2841 (3) Before transferring currency and the proceeds or revenue from the sale of the
2842 property in accordance with this chapter, the agency shall:

2843 (a) deduct the agency's direct costs, expense of reporting under Section ~~[24-4-118]~~
2844 [77-11b-404](#), and expense of obtaining and maintaining the property pending a forfeiture
2845 proceeding; and

2846 (b) if the prosecuting agency that employed the prosecuting attorney has met the
2847 requirements of Subsection ~~[24-4-119(3)]~~ [77-11b-105\(3\)](#), pay the prosecuting attorney the legal
2848 costs associated with the litigation of the forfeiture proceeding, and up to 20% of the value of

2849 the forfeited property in attorney fees.

2850 (4) If the forfeiture arises from a violation relating to wildlife resources, the agency
2851 shall deposit any remaining currency and the proceeds or revenue from the sale of the property
2852 into the Wildlife Resources Account created in Section [23-14-13](#).

2853 (5) The agency shall transfer any remaining currency, the proceeds, or revenue from the
2854 sale of the property to the commission and deposited into the [~~account~~] Criminal Forfeiture
2855 Restricted Account created in Section [77-11b-402](#).

2856 Section 61. Section **77-11b-402**, which is renumbered from Section 24-4-116 is
2857 renumbered and amended to read:

2858 ~~[24-4-116]~~. **77-11b-402. Criminal Forfeiture Restricted Account.**

2859 (1) There is created within the General Fund a restricted account known as the
2860 "Criminal Forfeiture Restricted Account."

2861 (2) Except as provided in Section [~~24-4-115~~] [77-11b-401](#), the commission shall deposit
2862 any proceeds from [~~forfeited property and forfeited money~~] property forfeited through a
2863 forfeiture proceeding under this chapter into the [~~account~~] Criminal Forfeiture Restricted
2864 Account.

2865 (3) [~~Money in the account shall be appropriated~~] The Legislature shall appropriate
2866 money in the Criminal Forfeiture Restricted Account to the commission for the purpose of
2867 implementing the [~~program under Section 24-4-117~~] State Asset Forfeiture Grant Program
2868 described in Section [77-11b-403](#).

2869 Section 62. Section **77-11b-403**, which is renumbered from Section 24-4-117 is
2870 renumbered and amended to read:

2871 ~~[24-4-117]~~. **77-11b-403. State Asset Forfeiture Grant Program.**

2872 (1) There is created the State Asset Forfeiture Grant Program.

2873 (2) The program shall fund crime prevention, crime victim reparations, and law
2874 enforcement activities that have the purpose of:

2875 (a) deterring crime by depriving criminals of the profits and proceeds of their illegal
2876 activities;

2877 (b) weakening criminal enterprises by removing the instrumentalities of crime;

2878 (c) reducing crimes involving substance abuse by supporting the creation,

2879 administration, or operation of drug court programs throughout the state;

- 2880 (d) encouraging cooperation between agencies;
- 2881 (e) allowing the costs and expenses of law enforcement to be defrayed by the forfeited
- 2882 proceeds of crime;
- 2883 (f) increasing the equitability and accountability of the use of forfeited property used to
- 2884 assist agencies in reducing and preventing crime; and
- 2885 (g) providing aid to victims of criminally injurious conduct, as defined in Section
- 2886 [63M-7-502](#), who may be eligible for assistance under Title 63M, Chapter 7, Part 5, Utah Office
- 2887 for Victims of Crime.
- 2888 (3) (a) Upon appropriation of funds from the [~~account~~] Criminal Forfeiture Restricted
- 2889 Account, the commission shall allocate and administer grants to an agency or political
- 2890 subdivision of the state in compliance with this section and Subsection [~~24-4-119(2)~~]
- 2891 [77-11b-105\(2\)](#) and to further the program purposes under Subsection (2).
- 2892 (b) The commission may retain up to 3% of the annual appropriation from the
- 2893 [~~account~~] Criminal Forfeiture Restricted Account to pay for administrative costs incurred by
- 2894 the commission, including salary and benefits, equipment, supplies, or travel costs that are
- 2895 directly related to the administration of the program.
- 2896 (4) An agency or political subdivision shall apply for an award from the program by
- 2897 completing and submitting forms specified by the commission.
- 2898 (5) In granting the awards, the commission shall ensure that the amount of each award
- 2899 takes into consideration the:
- 2900 (a) demonstrated needs of the agency or political subdivision;
- 2901 (b) demonstrated ability of the agency or political subdivision to appropriately use the
- 2902 award;
- 2903 (c) degree to which the agency's or political subdivision's need is offset through the
- 2904 agency's or political subdivision's participation in federal equitable sharing or through other
- 2905 federal and state grant programs; and
- 2906 (d) agency's or political subdivision's cooperation with other state and local agencies
- 2907 and task forces.
- 2908 (6) The commission may award a grant to any agency or political subdivision engaged
- 2909 in activities associated with Subsection (2) even if the agency has not contributed to the fund.
- 2910 (7) An applying agency or political subdivision shall demonstrate compliance with all

2911 reporting and policy requirements applicable under this chapter and under Title 63M, Chapter
2912 7, Criminal Justice and Substance Abuse, in order to qualify as a potential award recipient.

2913 (8) (a) A recipient agency may only use award money after approval by the agency's
2914 legislative body.

2915 (b) The award money is nonlapsing.

2916 (9) A recipient agency or political subdivision shall use an award:

2917 (a) only for law enforcement purposes described in this section, or for victim
2918 reparations as described in Subsection (2)(g); and

2919 (b) for the purposes specified by the agency or political subdivision in the agency's or
2920 political subdivision's application for the award.

2921 (10) A permissible law enforcement purpose for which award money may be used
2922 includes:

2923 (a) controlled substance interdiction and enforcement activities;

2924 (b) drug court programs;

2925 (c) activities calculated to enhance future law enforcement investigations;

2926 (d) law enforcement training that includes:

2927 (i) implementation of the Fourth Amendment to the United States Constitution and
2928 Utah Constitution, Article I, Section 7, and that addresses the protection of the individual's
2929 right of due process;

2930 (ii) protection of the rights of innocent property holders; and

2931 (iii) the Tenth Amendment to the United States Constitution regarding states'
2932 sovereignty and the states' reserved rights;

2933 (e) law enforcement or detention facilities;

2934 (f) law enforcement operations or equipment that are not routine costs or operational
2935 expenses;

2936 (g) drug, gang, or crime prevention education programs that are sponsored in whole or
2937 in part by the law enforcement agency or its legislative body;

2938 (h) matching funds for other state or federal law enforcement grants; and

2939 (i) the payment of legal costs, attorney fees, and postjudgment interest in forfeiture
2940 actions.

2941 (11) A law enforcement purpose for which award money may not be granted or used

2942 includes:

- 2943 (a) payment of salaries, retirement benefits, or bonuses to any individual;
- 2944 (b) payment of expenses not related to law enforcement;
- 2945 (c) uses not specified in the agency's award application;
- 2946 (d) uses not approved by the agency's legislative body;
- 2947 (e) payments, transfers, or pass-through funding to an entity other than an agency; or
- 2948 (f) uses, payments, or expenses that are not within the scope of the agency's functions.

2949 Section 63. Section ~~77-11b-404~~, which is renumbered from Section 24-4-118 is
2950 renumbered and amended to read:

2951 ~~[24-4-118]~~. **77-11b-404. Forfeiture reporting requirements.**

2952 (1) An agency shall provide all reasonably available data described in Subsection (5):

- 2953 (a) if transferring the forfeited property resulting from the final disposition of any civil
2954 or criminal forfeiture matter to the commission as required under Subsection ~~[24-4-115(5)]~~
2955 77-11b-401(5); or

2956 (b) if the agency has been awarded an equitable share of property forfeited by the
2957 federal government.

2958 (2) The commission shall develop a standardized report format that each agency shall
2959 use in reporting the data required under this section.

2960 (3) The commission shall annually, on or before April 30, prepare a summary report of
2961 the case data submitted by each agency under Subsection (1) during the prior calendar year.

2962 (4) (a) If an agency does not comply with the reporting requirements under this section,
2963 the commission shall contact the agency and request that the agency comply with the required
2964 reporting provisions.

2965 (b) If an agency fails to comply with the reporting requirements under this section
2966 within 30 days after receiving the request to comply, the commission shall report the
2967 noncompliance to the attorney general, the speaker of the House of Representatives, and the
2968 president of the Senate.

2969 (5) The data for any civil or criminal forfeiture matter for which final disposition has
2970 been made under Subsection (1) shall include:

- 2971 (a) the agency that conducted the seizure;
- 2972 (b) the case number or other identification;

- 2973 (c) the date or dates on which the seizure was conducted;
- 2974 (d) the number of individuals having a known property interest in each seizure of
2975 property;
- 2976 (e) the type of property seized;
- 2977 (f) the alleged offense that was the cause for seizure of the property;
- 2978 (g) whether any criminal charges were filed regarding the alleged offense, and if so, the
2979 final disposition of each charge, including the conviction, acquittal, or dismissal, or whether
2980 action on a charge is pending;
- 2981 (h) the type of enforcement action that resulted in the seizure, including an
2982 enforcement stop, a search warrant, or an arrest warrant;
- 2983 (i) whether the forfeiture procedure was civil or criminal;
- 2984 (j) the value of the property seized, including currency and the estimated market value
2985 of any tangible property;
- 2986 (k) the final disposition of the matter, including whether final disposition was entered
2987 by stipulation of the parties, including the amount of property returned to any claimant, by
2988 default, by summary judgment, by jury award, or by guilty plea or verdict in a criminal
2989 forfeiture;
- 2990 (l) if the property was forfeited by the federal government, the amount of forfeited
2991 money awarded to the agency;
- 2992 (m) the agency's direct costs, expense of reporting under this section, and expenses for
2993 obtaining and maintaining the seized property, as described in Subsection [~~24-4-115(3)(a)~~
2994 [77-11b-401\(3\)\(a\)](#)];
- 2995 (n) the legal costs and attorney fees paid to the prosecuting attorney, as described in
2996 Subsection [~~24-4-115(3)(b)~~ [77-11b-401\(3\)\(b\)](#)]; and
- 2997 (o) if the property was transferred to a federal agency or any governmental entity not
2998 created under and subject to state law:
- 2999 (i) the date of the transfer;
- 3000 (ii) the name of the federal agency or entity to which the property was transferred;
- 3001 (iii) a reference to which reason under Subsection [~~24-2-106(3)~~ [77-11a-205\(3\)](#)
3002 justified the transfer;
- 3003 (iv) the court or agency where the forfeiture case was heard;

3004 (v) the date of the order of transfer of the property; and
3005 (vi) the value of the property transferred to the federal agency, including currency and
3006 the estimated market value of any tangible property.

3007 (6) An agency shall annually on or before April 30 submit a report for the prior
3008 calendar year to the commission that states:

3009 (a) whether the agency received an award from the State Asset Forfeiture Grant
3010 Program under Section [~~24-4-117~~] [77-11b-403](#) and, if so, the following information for each
3011 award:

- 3012 (i) the amount of the award;
- 3013 (ii) the date of the award;
- 3014 (iii) how the award was used or is planned to be used; and
- 3015 (iv) a statement signed by both the agency's executive officer or designee and by the
3016 agency's legal counsel, that:

3017 (A) the agency has complied with all inventory, policy, and reporting requirements
3018 under Section [~~24-4-117~~] [77-11b-403](#); and

3019 (B) all awards were used for crime reduction or law enforcement purposes as specified
3020 in the application and that the awards were used only upon approval by the agency's legislative
3021 body; and

3022 (b) whether the agency received any property, money, or other things of value in
3023 accordance with federal law as described in Subsection [~~24-2-105(7)~~] [77-11a-205\(7\)](#) and, if so,
3024 the following information for each piece of property, money, or other thing of value:

- 3025 (i) the case number or other case identification;
- 3026 (ii) the value of the award and the property, money, or other things of value received by
3027 the agency;
- 3028 (iii) the date of the award;
- 3029 (iv) the identity of any federal agency involved in the forfeiture;
- 3030 (v) how the awarded property has been used or is planned to be used; and
- 3031 (vi) a statement signed by both the agency's executive officer or designee and by the
3032 agency's legal counsel, that the agency has only used the award for crime reduction or law
3033 enforcement purposes authorized under Section [~~24-4-117~~] [77-11b-403](#), and that the award was
3034 used only upon approval by the agency's legislative body.

3035 (7) (a) On or before July 1 of each year, the commission shall submit notice of the
3036 annual reports in Subsection (3) and Subsection (6), in electronic format, to:

3037 (i) the attorney general;

3038 (ii) the speaker of the House of Representatives, for referral to any House standing or
3039 interim committees with oversight over law enforcement and criminal justice;

3040 (iii) the president of the Senate, for referral to any Senate standing or interim
3041 committees with oversight over law enforcement and criminal justice; and

3042 (iv) each law enforcement agency.

3043 (b) The reports described in Subsection (3) and Subsection (6), as well as the
3044 individual case data described in Subsection (1) for the previous calendar year, shall be
3045 published on the Utah Open Government website at open.utah.gov on or before July 15 of each
3046 year.

3047 Section 64. Section **77-11c-101**, which is renumbered from Section 77-24a-1 is
3048 renumbered and amended to read:

3049 **CHAPTER 11c. LOST OR MISLAID PROPERTY**

3050 ~~[77-24a-1]~~. **77-11c-101. Definitions.**

3051 As used in this chapter:

3052 (1) "Lost or mislaid property":

3053 (a) means any property that comes into the possession of a peace officer or law
3054 enforcement agency:

3055 (i) that is not claimed by anyone who is identified as the owner of the property; or

3056 (ii) for which no owner or interest holder can be found after a reasonable and diligent
3057 search;

3058 (b) includes any property received by a peace officer or law enforcement agency from a
3059 person claiming to have found the property; and

3060 (c) does not include property seized by a peace officer [~~pursuant to Title 24, Forfeiture~~
3061 ~~and Disposition of Property Act~~] in accordance with Chapter 11a, Seizure and Retention of
3062 Property and Contraband.

3063 (2) "Public interest use" means:

3064 (a) use by a governmental agency as determined by the agency's legislative body; or

3065 (b) donation to a nonprofit charity registered with the state.

3066 Section 65. Section **77-11c-102**, which is renumbered from Section 77-24a-2 is
3067 renumbered and amended to read:

3068 ~~[77-24a-2]~~. **77-11c-102**. **Disposition by police agency.**

3069 All lost or mislaid property coming into the possession of a peace officer or law
3070 enforcement agency shall be turned over to, held, and disposed of only by the local law
3071 enforcement agency whose authority extends to the area where the item was found.

3072 Section 66. Section **77-11c-103**, which is renumbered from Section 77-24a-3 is
3073 renumbered and amended to read:

3074 ~~[77-24a-3]~~. **77-11c-103**. **Statement of finder of property.**

3075 (1) A person who finds lost or mislaid property and delivers it to a local law
3076 enforcement agency shall sign a statement included in a form provided by the agency, stating:

3077 (a) the manner in which the property came into the person's possession, including the
3078 time, date, and place;

3079 (b) that the person does not know who owns the property;

3080 (c) that, to the person's knowledge, the property was not stolen;

3081 (d) that the person's possession of the property is not unlawful; and

3082 (e) any information the person is aware of which could lead to a determination of the
3083 owner.

3084 (2) Additional information may be requested by the agency receiving the property, as
3085 necessary.

3086 Section 67. Section **77-11c-104**, which is renumbered from Section 77-24a-4 is
3087 renumbered and amended to read:

3088 ~~[77-24a-4]~~. **77-11c-104**. **Locating owner of property.**

3089 (1) The local law enforcement agency shall take reasonable steps to determine the
3090 identity and location of the owner, and notify the owner that the property is in custody.

3091 (2) The owner may obtain the property only by providing personal identification,
3092 identifying the property, and paying any costs incurred by the agency, including costs for
3093 advertising or storage.

3094 Section 68. Section **77-11c-105**, which is renumbered from Section 77-24a-5 is
3095 renumbered and amended to read:

3096 ~~[77-24a-5]~~. **77-11c-105**. **Disposition of unclaimed property.**

3097 (1) (a) If the owner of any lost or mislaid property cannot be determined or notified, or
3098 if the owner of the property is determined and notified, and fails to appear and claim the
3099 property after three months of [its] the property's receipt by the local law enforcement agency,
3100 the agency shall:

3101 (i) publish notice of the intent to dispose of the unclaimed property on Utah's Public
3102 Legal Notice Website established in Subsection [45-1-101\(2\)\(b\)](#);

3103 (ii) post a similar notice on the public website of the political subdivision within which
3104 the law enforcement agency is located; and

3105 (iii) post a similar notice in a public place designated for notice within the law
3106 enforcement agency.

3107 (b) The notice shall:

3108 (i) give a general description of the item; and

3109 (ii) the date of intended disposition.

3110 (c) The agency may not dispose of the lost or mislaid property until at least eight days
3111 after the date of publication and posting.

3112 (2) (a) If no claim is made for the lost or mislaid property within nine days of
3113 publication and posting, the agency shall notify the person who turned the property over to the
3114 local law enforcement agency, if it was turned over by a person under Section [~~77-24a-3~~]
3115 [77-11c-103](#).

3116 (b) Except as provided in Subsection (4), if that person has complied with the
3117 provisions of this chapter, the person may take the lost or mislaid property if the person:

3118 (i) pays the costs incurred for advertising and storage; and

3119 (ii) signs a receipt for the item.

3120 (3) If the person who found the lost or mislaid property fails to take the property under
3121 the provisions of this chapter, the agency shall:

3122 (a) apply the property to a public interest use as provided in Subsection (4);

3123 (b) sell the property at public auction and apply the proceeds of the sale to a public
3124 interest use; or

3125 (c) destroy the property if it is unfit for a public interest use or sale.

3126 (4) Before applying the lost or mislaid property to a public interest use, the agency
3127 having possession of the property shall obtain from the agency's legislative body:

- 3128 (a) permission to apply the property to a public interest use; and
- 3129 (b) the designation and approval of the public interest use of the property.
- 3130 (5) Any person employed by a law enforcement agency who finds property may not
- 3131 claim or receive property under this section.

3132 Section 69. Section **77-37-3** is amended to read:

3133 **77-37-3. Bill of rights.**

3134 (1) The bill of rights for victims and witnesses is:

3135 (a) Victims and witnesses have a right to be informed as to the level of protection from
3136 intimidation and harm available to them, and from what sources, as they participate in criminal
3137 justice proceedings as designated by Section **76-8-508**, regarding witness tampering, and
3138 Section **76-8-509**, regarding threats against a victim. Law enforcement, prosecution, and
3139 corrections personnel have the duty to timely provide this information in a form which is useful
3140 to the victim.

3141 (b) Victims and witnesses, including children and their guardians, have a right to be
3142 informed and assisted as to their role in the criminal justice process. All criminal justice
3143 agencies have the duty to provide this information and assistance.

3144 (c) Victims and witnesses have a right to clear explanations regarding relevant legal
3145 proceedings; these explanations shall be appropriate to the age of child victims and witnesses.
3146 All criminal justice agencies have the duty to provide these explanations.

3147 (d) Victims and witnesses should have a secure waiting area that does not require them
3148 to be in close proximity to defendants or the family and friends of defendants. Agencies
3149 controlling facilities shall, whenever possible, provide this area.

3150 (e) Victims may seek restitution or reparations, including medical costs, as provided in
3151 Title 63M, Chapter 7, Criminal Justice and Substance Abuse, Title 77, Chapter 38b, Crime
3152 Victims Restitution Act, and Section **80-6-710**. State and local government agencies that serve
3153 victims have the duty to have a functional knowledge of the procedures established by the
3154 Crime Victim Reparations Board and to inform victims of these procedures.

3155 (f) Victims and witnesses have a right to have any personal property returned as
3156 provided in [~~Sections 77-24a-1 through 77-24a-5~~] Chapter 11a, Seizure and Retention of
3157 Property and Contraband, and Chapter 11c, Lost or Mislaid Property. Criminal justice agencies
3158 shall expeditiously return the property when it is no longer needed for court law enforcement or

3159 prosecution purposes.

3160 (g) Victims and witnesses have the right to reasonable employer intercession services,
3161 including pursuing employer cooperation in minimizing employees' loss of pay and other
3162 benefits resulting from their participation in the criminal justice process. Officers of the court
3163 shall provide these services and shall consider victims' and witnesses' schedules so that
3164 activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may
3165 request that the responsible agency intercede with employers or other parties.

3166 (h) Victims and witnesses, particularly children, should have a speedy disposition of
3167 the entire criminal justice process. All involved public agencies shall establish policies and
3168 procedures to encourage speedy disposition of criminal cases.

3169 (i) Victims and witnesses have the right to timely notice of judicial proceedings they
3170 are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies
3171 have the duty to provide these notifications. Defense counsel and others have the duty to
3172 provide timely notice to prosecution of any continuances or other changes that may be required.

3173 (j) Victims of sexual offenses have the following rights:

3174 (i) the right to request voluntary testing for themselves for HIV infection as provided in
3175 Section 53-10-803 and to request mandatory testing of the alleged sexual offender for HIV
3176 infection as provided in Section 53-10-802;

3177 (ii) the right to be informed whether a DNA profile was obtained from the testing of
3178 the rape kit evidence or from other crime scene evidence;

3179 (iii) the right to be informed whether a DNA profile developed from the rape kit
3180 evidence or other crime scene evidence has been entered into the Utah Combined DNA Index
3181 System;

3182 (iv) the right to be informed whether there is a match between a DNA profile
3183 developed from the rape kit evidence or other crime scene evidence and a DNA profile
3184 contained in the Utah Combined DNA Index System, provided that disclosure would not
3185 impede or compromise an ongoing investigation; and

3186 (v) the right to designate a person of the victim's choosing to act as a recipient of the
3187 information provided under this Subsection (1)(j) and under Subsections (2) and (3).

3188 (k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency
3189 communicate with the victim or the victim's designee regarding the status of DNA testing,

3190 absent a specific request received from the victim or the victim's designee.

3191 (2) The law enforcement agency investigating a sexual offense may:

3192 (a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the
3193 request of a victim or the victim's designee and is the designated agency to provide that
3194 information to the victim or the victim's designee;

3195 (b) require that the victim's request be in writing; and

3196 (c) respond to the victim's request with verbal communication, written communication,
3197 or by email, if an email address is available.

3198 (3) The law enforcement agency investigating a sexual offense has the following
3199 authority and responsibilities:

3200 (a) If the law enforcement agency determines that DNA evidence will not be analyzed
3201 in a case where the identity of the perpetrator has not been confirmed, the law enforcement
3202 agency shall notify the victim or the victim's designee.

3203 (b) (i) If the law enforcement agency intends to destroy or dispose of rape kit evidence
3204 or other crime scene evidence from an unsolved sexual assault case, the law enforcement
3205 agency shall provide written notification of that intention and information on how to appeal the
3206 decision to the victim or the victim's designee of that intention.

3207 (ii) Written notification under this Subsection (3) shall be made not fewer than 60 days
3208 prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.

3209 (c) A law enforcement agency responsible for providing information under Subsections
3210 (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the
3211 victim or the victim's designee, shall advise the victim or the victim's designee of any
3212 significant changes in the information of which the law enforcement agency is aware.

3213 (d) The law enforcement agency investigating the sexual offense is responsible for
3214 informing the victim or the victim's designee of the rights established under Subsections
3215 (1)(j)(ii) through (iv) and (2), and this Subsection (3).

3216 (4) Informational rights of the victim under this chapter are based upon the victim
3217 providing the current name, address, telephone number, and email address, if an email address
3218 is available, of the person to whom the information should be provided to the criminal justice
3219 agencies involved in the case.

3220 Section 70. Section **78B-9-104** is amended to read:

3221 **78B-9-104. Grounds for relief -- Retroactivity of rule.**

3222 (1) Unless precluded by Section [78B-9-106](#) or [78B-9-107](#), an individual who has been
3223 convicted and sentenced for a criminal offense may file an action in the district court of
3224 original jurisdiction for postconviction relief to vacate or modify the conviction or sentence
3225 upon the following grounds:

3226 (a) the conviction was obtained or the sentence was imposed in violation of the United
3227 States Constitution or Utah Constitution;

3228 (b) the conviction was obtained or the sentence was imposed under a statute that is in
3229 violation of the United States Constitution or Utah Constitution, or the conduct for which the
3230 petitioner was prosecuted is constitutionally protected;

3231 (c) the sentence was imposed or probation was revoked in violation of the controlling
3232 statutory provisions;

3233 (d) the petitioner had ineffective assistance of counsel in violation of the United States
3234 Constitution or Utah Constitution;

3235 (e) newly discovered material evidence exists that requires the court to vacate the
3236 conviction or sentence, because:

3237 (i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of
3238 trial or sentencing or in time to include the evidence in any previously filed post-trial motion or
3239 postconviction proceeding, and the evidence could not have been discovered through the
3240 exercise of reasonable diligence;

3241 (ii) the material evidence is not merely cumulative of evidence that was known;

3242 (iii) the material evidence is not merely impeachment evidence; and

3243 (iv) viewed with all the other evidence, the newly discovered material evidence
3244 demonstrates that no reasonable trier of fact could have found the petitioner guilty of the
3245 offense or subject to the sentence received;

3246 (f) the petitioner can prove that:

3247 (i) biological evidence, as that term is defined in Section ~~[53-20-101]~~ [77-11a-101](#),
3248 relevant to the petitioner's conviction was not preserved in accordance with ~~[Title 53, Chapter~~
3249 ~~20, Forensic Biological Evidence Preservation]~~ Title 77, Chapter 11a, Part 4, Preservation of
3250 Biological Evidence for Violent Felony Offenses;

3251 (ii) (A) the biological evidence described in Subsection (1)(f)(i) was not tested

3252 previously; or

3253 (B) if the biological evidence described in Subsection (1)(f)(i) was tested previously,
3254 there is a material change in circumstance, including a scientific or technological advance, that
3255 would make it plausible that a test of the biological evidence described in Subsection (1)(f)(i)
3256 would produce a favorable test result for the petitioner; and

3257 (iii) a favorable result described in Subsection (1)(f)(ii), which is presumed for
3258 purposes of the petitioner's action under this section, when viewed with all the other evidence,
3259 demonstrates a reasonable probability of a more favorable outcome at trial for the petitioner;

3260 (g) the petitioner can prove entitlement to relief under a rule announced by the United
3261 States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction
3262 and sentence became final on direct appeal, and that:

3263 (i) the rule was dictated by precedent existing at the time the petitioner's conviction or
3264 sentence became final; or

3265 (ii) the rule decriminalizes the conduct that comprises the elements of the crime for
3266 which the petitioner was convicted; or

3267 (h) the petitioner committed any of the following offenses while subject to force, fraud,
3268 or coercion, as defined in Section 76-5-308:

3269 (i) Section 58-37-8, possession of a controlled substance;

3270 (ii) Section 76-10-1304, aiding prostitution;

3271 (iii) Section 76-6-206, criminal trespass;

3272 (iv) Section 76-6-413, theft;

3273 (v) Section 76-6-502, possession of forged writing or device for writing;

3274 (vi) Sections 76-6-602 through 76-6-608, retail theft;

3275 (vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification
3276 document;

3277 (viii) Section 76-9-702, lewdness;

3278 (ix) Section 76-10-1302, prostitution; or

3279 (x) Section 76-10-1313, sexual solicitation.

3280 (2) The court may not grant relief from a conviction or sentence unless in light of the
3281 facts proved in the postconviction proceeding, viewed with the evidence and facts introduced at
3282 trial or during sentencing:

3283 (a) the petitioner establishes that there would be a reasonable likelihood of a more
3284 favorable outcome; or

3285 (b) if the petitioner challenges the conviction or the sentence on grounds that the
3286 prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner
3287 establishes that the false testimony, in any reasonable likelihood, could have affected the
3288 judgment of the fact finder.

3289 (3) (a) The court may not grant relief from a conviction based on a claim that the
3290 petitioner is innocent of the crime for which convicted except as provided in Part 3,
3291 Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

3292 (b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction
3293 Determination of Factual Innocence, of this chapter may not be filed as part of a petition under
3294 this part, but shall be filed separately and in conformity with the provisions of Part 3,
3295 Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

3296 Section 71. **Repealer.**

3297 This bill repeals:

3298 Section **24-1-101, Title.**

3299 Section **24-2-101, Title.**

3300 Section **24-2-106, Retention of property.**

3301 Section **24-3-101, Title.**

3302 Section **24-4-101, Title.**

3303 Section **53-20-101, Definitions.**