

**Senator Wayne A. Harper** proposes the following substitute bill:

**PROPERTY AND CONTRABAND AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: Ken Ivory

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**LONG TITLE**

**General Description:**

This bill amends provisions regarding property and contraband.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends provisions regarding the seizure of property and contraband by a conservation officer for the Division of Wildlife Resources;
- ▶ recodifies Title 24, Forfeiture and Disposition of Property Act, to Title 77, Chapter 11a, Seizure 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;



- 26           ▶ establishes the requirements for preserving evidence from property or contraband
- 27 that is not required to be retained by an agency;
- 28           ▶ provides the procedure for requesting the release or disposal of evidence that an
- 29 agency determines is not required to be retained by an agency;
- 30           ▶ addresses the retention of property or contraband as an exhibit;
- 31           ▶ addresses the applicability of Title 77, Chapter 11a, Part 3, Retention of Property
- 32 and Contraband as Evidence, and Part 4, Preservation of Biological Evidence for
- 33 Violent Felony Offenses;
- 34           ▶ amends provisions related to the release of property to an owner, interest holder, or
- 35 person who asserts a claim to property that the agency seeks to forfeit;
- 36           ▶ amends provisions related to the disposal of seized property and contraband;
- 37           ▶ amends provisions related to the forfeiture of seized property; and
- 38           ▶ makes technical and conforming changes.

39 **Money Appropriated in this Bill:**

40           None

41 **Other Special Clauses:**

42           None

43 **Utah Code Sections Affected:**

44 AMENDS:

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

57 Coordination Clause, Laws of Utah 2022, Chapter 390

58 **63I-1-263**, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236,  
59 249, 274, 296, 313, 361, 362, 417, 419, and 472

60 **63J-1-602.1**, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415,  
61 and 451

62 **76-5-109.3**, as enacted by Laws of Utah 2022, Chapter 181

63 **76-6-111**, as last amended by Laws of Utah 2021, Chapters 57, 260

64 **76-6-501**, as last amended by Laws of Utah 2016, Chapter 117

65 **76-6-1303**, as last amended by Laws of Utah 2015, Chapter 258

66 **76-10-503**, as last amended by Laws of Utah 2021, Chapter 262

67 **76-10-1108**, as last amended by Laws of Utah 2015, Chapter 258

68 **76-10-1112**, as enacted by Laws of Utah 2020, Chapter 291

69 **77-37-3**, as last amended by Laws of Utah 2022, Chapter 430

70 **78B-9-104**, as last amended by Laws of Utah 2022, Chapter 120

71 ENACTS:

72 **77-11a-301**, Utah Code Annotated 1953

73 **77-11a-302**, Utah Code Annotated 1953

74 **77-11a-303**, Utah Code Annotated 1953

75 **77-11a-304**, Utah Code Annotated 1953

76 **77-11a-502**, Utah Code Annotated 1953

77 **77-11a-503**, Utah Code Annotated 1953

78 **77-11b-101**, Utah Code Annotated 1953

79 **77-11b-104**, Utah Code Annotated 1953

80 RENUMBERS AND AMENDS:

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

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

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

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

88 230)  
89 [77-11a-203](#), (Renumbered from 24-2-103, as last amended by Laws of Utah 2021,  
90 Chapter 230)  
91 [77-11a-204](#), (Renumbered from 24-2-104, as last amended by Laws of Utah 2022,  
92 Chapters 120, 274)  
93 [77-11a-205](#), (Renumbered from 24-2-105, as last amended by Laws of Utah 2022,  
94 Chapter 179)  
95 [77-11a-401](#), (Renumbered from 53-20-102, as enacted by Laws of Utah 2022, Chapter  
96 120)  
97 [77-11a-402](#), (Renumbered from 53-20-103, as enacted by Laws of Utah 2022, Chapter  
98 120)  
99 [77-11a-403](#), (Renumbered from 53-20-104, as enacted by Laws of Utah 2022, Chapter  
100 120)  
101 [77-11a-501](#), (Renumbered from 24-2-107, as last amended by Laws of Utah 2022,  
102 Chapters 120, 179)  
103 [77-11a-504](#), (Renumbered from 24-2-108, as last amended by Laws of Utah 2022,  
104 Chapters 120, 179)  
105 [77-11a-505](#), (Renumbered from 24-3-104, as last amended by Laws of Utah 2021,  
106 Chapter 230)  
107 [77-11a-601](#), (Renumbered from 24-3-101.5, as last amended by Laws of Utah 2022,  
108 Chapters 120, 274)  
109 [77-11a-602](#), (Renumbered from 24-3-103, as last amended by Laws of Utah 2021,  
110 Chapter 230)  
111 [77-11a-603](#), (Renumbered from 24-3-103.5, as enacted by Laws of Utah 2017, Chapter  
112 334)  
113 [77-11b-102](#), (Renumbered from 24-4-102, as last amended by Laws of Utah 2022,  
114 Chapters 116, 274)  
115 [77-11b-103](#), (Renumbered from 24-4-106, as enacted by Laws of Utah 2013, Chapter  
116 394)  
117 [77-11b-105](#), (Renumbered from 24-4-119, as enacted by Laws of Utah 2021, Chapter  
118 230)

- 119            [77-11b-201](#), (Renumbered from 24-4-103, as last amended by Laws of Utah 2022,  
120 Chapter 179)
- 121            [77-11b-202](#), (Renumbered from 24-4-103.3, as last amended by Laws of Utah 2022,  
122 Chapter 120)
- 123            [77-11b-203](#), (Renumbered from 24-4-103.5, as last amended by Laws of Utah 2022,  
124 Chapter 120)
- 125            [77-11b-204](#), (Renumbered from 24-4-111, as last amended by Laws of Utah 2021,  
126 Chapter 230)
- 127            [77-11b-301](#), (Renumbered from 24-4-105, as last amended by Laws of Utah 2022,  
128 Chapter 179)
- 129            [77-11b-302](#), (Renumbered from 24-4-104, as last amended by Laws of Utah 2021,  
130 Chapter 230)
- 131            [77-11b-303](#), (Renumbered from 24-4-113, as last amended by Laws of Utah 2021,  
132 Chapter 230)
- 133            [77-11b-304](#), (Renumbered from 24-4-109, as last amended by Laws of Utah 2021,  
134 Chapter 230)
- 135            [77-11b-305](#), (Renumbered from 24-4-110, as last amended by Laws of Utah 2021,  
136 Chapter 230)
- 137            [77-11b-306](#), (Renumbered from 24-4-112, as last amended by Laws of Utah 2021,  
138 Chapter 230)
- 139            [77-11b-401](#), (Renumbered from 24-4-115, as last amended by Laws of Utah 2022,  
140 Chapter 179)
- 141            [77-11b-402](#), (Renumbered from 24-4-116, as last amended by Laws of Utah 2021,  
142 Chapter 230)
- 143            [77-11b-403](#), (Renumbered from 24-4-117, as last amended by Laws of Utah 2021,  
144 Chapter 230)
- 145            [77-11b-404](#), (Renumbered from 24-4-118, as last amended by Laws of Utah 2022,  
146 Chapter 274)
- 147            [77-11c-101](#), (Renumbered from 77-24a-1, as repealed and reenacted by Laws of Utah  
148 2013, Chapter 394)
- 149            [77-11c-102](#), (Renumbered from 77-24a-2, as last amended by Laws of Utah 2013,

150 Chapter 394)

151 **77-11c-103**, (Renumbered from 77-24a-3, as last amended by Laws of Utah 2013,  
152 Chapter 394)

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

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

157 REPEALS:

158 **24-1-101**, as enacted by Laws of Utah 2013, Chapter 394

159 **24-2-101**, as enacted by Laws of Utah 2013, Chapter 394

160 **24-2-106**, as last amended by Laws of Utah 2022, Chapter 120

161 **24-3-101**, as last amended by Laws of Utah 2021, Chapter 230

162 **24-4-101**, as last amended by Laws of Utah 2021, Chapter 230

163 **53-20-101**, as enacted by Laws of Utah 2022, Chapter 120

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

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

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

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

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

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

174 (c) the ticket number;

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

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

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

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

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

- 181 (iii) the individual's signature; and
- 182 (iv) (A) subject to any rule made under Subsection (8), an electronic or tangible legible  
183 fingerprint of the individual's right index finger, or if the right index finger cannot be  
184 fingerprinted, a legible fingerprint of the individual with a notation identifying the fingerprint  
185 and the reason why the right index fingerprint was unavailable; and
- 186 (B) notwithstanding the other provisions of this Subsection (1), an electronic legible  
187 fingerprint is not required to be documented on the ticket;
- 188 (f) the amount loaned on, paid for, or value for trade-in of each article of property;
- 189 (g) the full name of the individual conducting the pawn transaction or secondhand  
190 merchandise transaction on behalf of the pawn or secondhand business or the initials or a  
191 unique identifying number of the individual, if the pawn or secondhand business maintains a  
192 record of the initials or unique identifying number of the individual; and
- 193 (h) an accurate description of each article of property, with available identifying marks,  
194 including:
- 195 (i) (A) names, brand names, numbers, serial numbers, model numbers, IMEI numbers,  
196 color, manufacturers' names, and size;
- 197 (B) metallic composition, and any jewels, stones, or glass;
- 198 (C) any other marks of identification or indicia of ownership on the property;
- 199 (D) the weight of the property, if the payment is based on weight;
- 200 (E) any other unique identifying feature; and
- 201 (F) gold content, if indicated; or
- 202 (ii) if multiple articles of property of a similar nature are delivered together in one  
203 transaction and the articles of property do not bear serial or model numbers and do not include  
204 precious metals or gemstones, such as musical or video recordings, books, or hand tools, the  
205 description of the articles is adequate if it includes the quantity of the articles and a description  
206 of the type of articles delivered.
- 207 (2) (a) A pawn or secondhand business may not accept property if, upon inspection, it  
208 is apparent that:
- 209 (i) a serial number or another form of indicia of ownership has been removed, altered,  
210 defaced, or obliterated;
- 211 (ii) the property is not a numismatic item and has indicia of being new, but is not

212 accompanied by a written receipt or other satisfactory proof of ownership other than the seller's  
213 own statement; or

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

247 (A) each item of jewelry; and

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

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

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

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

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

255 **13-32a-109. Holding period for property -- Return of property -- Penalty.**

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

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

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

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

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

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

272 (ii) If the property is pawned, the law enforcement agency may require the property be  
273 held beyond the terms of the contract between the pledgor and the pawnbroker.

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

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

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

285 (a) states the active case number;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

334 (ii) The notice shall identify the original victim, advise the pawn or secondhand  
335 business or catalytic converter purchaser that the original victim has identified the property,

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

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

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

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

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

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

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

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

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

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

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

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

366 (12) A violation of this section is a class B misdemeanor and is also subject to civil

367 penalties under Section [13-32a-110](#).

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

369 **13-32a-116.5. Contested disposition of property - Procedure.**

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

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

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

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

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

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

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

390 **17-18a-405. Civil responsibilities of public prosecutors.**

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

393 (1) bail bond forfeiture actions;

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

397 (3) civil actions incidental to or appropriate to supplement a public prosecutor's duties,

398 including an injunction, a habeas corpus, a declaratory action, or an extraordinary writ action,  
399 in which the interests of the state may be affected; and

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

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

403 **23-20-1. Enforcement authority of conservation officers -- Seizure and disposition**  
404 **of property.**

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

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

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

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

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

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

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

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

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

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

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

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

425 (2) A conservation officer may seize property or contraband, including any protected  
426 wildlife illegally taken or held, in accordance with Title 77, Chapter 11a, Seizure and Retention  
427 of Property and Contraband, and Chapter 11b, Forfeiture of Seized of Property.

428 (3) (a) If a conservation officer seizes wildlife as part of an investigation or prosecution

429 of an offense and the wildlife may reasonably be used to incriminate or exculpate a person for  
430 the offense, the division is not required to retain the wildlife under Title 77, Chapter 11a, Part  
431 3, Retention of Property and Contraband as Evidence.

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

435 (c) If a conservation officer seizes wildlife and the wildlife or parts of the wildlife are  
436 perishable, the division may donate the wildlife or parts of the wildlife to be used for charitable  
437 purposes if:

438 (i) the wildlife is protected wildlife; or

439 (ii) the division receives a court order allowing for the donation under Section  
440 77-11b-202.

441 (4) (a) Except as provided in Subsection (4)(b), the court may order the division to sell  
442 or dispose of protected wildlife that is seized by a conservation officer.

443 (b) The division may not sell migratory wildfowl but the division shall give the  
444 migratory wildfowl to a charitable institution or use the migratory wildfowl for other charitable  
445 purposes.

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

448 (5) (a) If a conservation officer seizes a vehicle under Section [77-11a-201](#), the division  
449 shall store any seized vehicle in a public or private garage, state impound lot, or any other  
450 secured storage facility.

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

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

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

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

459 ~~[(b)]~~ (d) The owner of a seized vehicle is not liable for the payment of any impound fee

460 or, if the fees have been paid, is entitled to reimbursement of the fees paid, if:

461 (i) no charges are filed or all charges are dropped which involve the use of the vehicle  
462 for the unlawful taking or possessing of wildlife;

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

465 (iii) the owner did not consent to a use of the vehicle [~~which~~] that violates this chapter.  
466 [~~(5)~~]

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

468 **41-6a-606. Speed contest or exhibition on highway -- Barricade or obstruction --**  
469 **-- Spectators of a speed contest -- Seizure of non-street legal vehicles.**

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

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

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

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

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

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

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

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

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

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

488 **53-5c-201. Voluntary commitment of a firearm by cohabitant -- Law enforcement**  
489 **to hold firearm.**

490 (1) As used in this section:



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

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

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

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

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

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

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

498 (ii) who owns a firearm.

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

503 (i) himself or herself;

504 (ii) the owner cohabitant; or

505 (iii) any other person.

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

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

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

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

512 (a) record:

513 (i) the owner cohabitant's name, address, and phone number;

514 (ii) the firearm serial number and the make and model of each firearm committed; and

515 (iii) the date that the firearm was voluntarily committed;

516 (b) require the cohabitant to sign a document attesting that the cohabitant resides in the  
517 home;

518 (c) hold the firearm in safe custody for 60 days after the day on which the firearm is  
519 voluntarily committed; and

520 (d) upon proof of identification, return the firearm to:

521 (i) (A) the owner cohabitant after the expiration of the 60-day period; or

522 (B) if the owner cohabitant requests return of the firearm before the expiration of the  
523 60-day period, at the time of the request; or

524 (ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.

525 (4) The law enforcement agency shall hold the firearm for an additional 60 days:

526 (a) if the initial 60-day period expires; and

527 (b) the cohabitant or owner cohabitant requests that the law enforcement agency hold  
528 the firearm for an additional 60 days.

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

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

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

537 (b) disposal of the firearm in accordance with Section 53-5c-202.

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

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

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

544 **53-5c-202. Illegal firearms confiscated -- Disposition of unclaimed firearm.**

545 (1) If a law enforcement agency receives a firearm in accordance with Section  
546 53-5c-201, and the firearm is an illegal firearm, the law enforcement agency shall:

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

549 (b) confiscate the firearm and dispose of the firearm in accordance with Section  
550 [~~24-3-103.5~~] 77-11a-603.

551 (2) (a) If a law enforcement agency cannot, after a reasonable attempt, locate an owner  
552 cohabitant to return a firearm in accordance with Section 53-5c-201, the law enforcement

553 agency shall dispose of the firearm in accordance with Section ~~[24-3-103.5]~~ 77-11a-603.

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

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

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

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

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

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

565 (ii) the person provides identification; and

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

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

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

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

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

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

575 **58-37a-6. Seizure -- Forfeiture -- Property rights.**

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

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

581 **58-37c-15. Civil forfeiture.**

582 The following shall be subject to forfeiture in accordance with the procedures and  
583 substantive protections of [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77,

584 Chapter 11b, Forfeiture of Seized Property:

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

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

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

592 **58-37d-7. Seizure and forfeiture.**

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

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

599 **63A-16-1002. Criminal Justice Database.**

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

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

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

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

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

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

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

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

614 (4) Each criminal justice agency charged with reporting information to the commission

615 shall provide the data or information to the database in a form prescribed by the commission.

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

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

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

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

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

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

622 (f) Section 63M-7-214, law enforcement agency grant reporting;

623 (g) Section 63M-7-216, prosecutorial data collection;

624 (h) Section 64-13-21, supervision of sentenced offenders placed in community;

625 (i) Section 64-13-25, standards for programs;

626 (j) Section 64-13-45, department reporting requirements;

627 (k) Section 64-13e-104, housing of state probationary inmates or state parole inmates;

628 (l) Section 77-7-8.5, use of tactical groups;

629 (m) Section 77-20-103, release data requirements;

630 (n) Section 77-22-2.5, court orders for criminal investigations;

631 (o) Section 78A-2-109.5, court demographics reporting; and

632 (p) any other statutes which require the collection of specific data and the reporting of  
633 that data to the commission.

634 (6) The commission shall report:

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

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

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

642 **63I-1-263. Repeal dates: Titles 63A to 63N.**

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

645 (2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1,

- 646 2023.
- 647 (3) Sections [63A-9-301](#) and [63A-9-302](#), related to the Motor Vehicle Review  
648 Committee, are repealed July 1, 2023.
- 649 (4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:
- 650 (a) Section [63A-18-102](#) is repealed;
- 651 (b) Section [63A-18-201](#) is repealed; and
- 652 (c) Section [63A-18-202](#) is repealed.
- 653 (5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July  
654 1, 2028.
- 655 (6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,  
656 2025.
- 657 (7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,  
658 2024.
- 659 (8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is  
660 repealed July 1, 2023.
- 661 (9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed  
662 July 1, 2023.
- 663 (10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is  
664 repealed July 1, 2026.
- 665 (11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.
- 666 (12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.
- 667 (13) Section [63G-6a-805](#), which creates the Purchasing from Persons with Disabilities  
668 Advisory Board, is repealed July 1, 2026.
- 669 (14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,  
670 2028.
- 671 (15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,  
672 2024.
- 673 (16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.
- 674 (17) Subsection [~~[63J-1-602.1\(17\)](#)~~] [63J-1-602.1\(16\)](#), relating to the Nurse Home  
675 Visiting Restricted Account, is repealed July 1, 2026.
- 676 (18) Subsection [63J-1-602.2\(6\)](#), referring to dedicated credits to the Utah Marriage

677 Commission, is repealed July 1, 2023.

678 (19) Subsection 63J-1-602.2(7), referring to the Trip Reduction Program, is repealed  
679 July 1, 2022.

680 (20) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is  
681 repealed January 1, 2025.

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

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

686 (a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are  
687 repealed;

688 (b) Section 63M-7-305, the language that states "council" is replaced with  
689 "commission";

690 (c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

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

692 (d) Subsection 63M-7-305(2) is repealed and replaced with:

693 "(2) The commission shall:

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

696 (b) coordinate the implementation of Section 77-18-104 and related provisions in  
697 Subsections 77-18-103(2)(c) and (d).".

698 (23) The Crime Victim Reparations and Assistance Board, created in Section  
699 63M-7-504, is repealed July 1, 2027.

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

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

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

704 (27) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July  
705 1, 2028.

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

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

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

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

713 (b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion  
714 Program, is repealed.

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

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

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

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

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

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

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

726 Section 14. Section 63J-1-602.1 is amended to read:

727 **63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**

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

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

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

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

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

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

738 (6) Money received by the Utah Inland Port Authority, as provided in Section



739 11-58-105.

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

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

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

744 (10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in  
745 Section 19-5-126.

746 (11) The "Support for State-Owned Shooting Ranges Restricted Account" created in  
747 Section 23-14-13.5.

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

750 [~~(13)~~] (12) Funds collected from the program fund for local health department  
751 expenses incurred in responding to a local health emergency under Section 26-1-38.

752 [~~(14)~~] (13) The Children with Cancer Support Restricted Account created in Section  
753 26-21a-304.

754 [~~(15)~~] (14) State funds for matching federal funds in the Children's Health Insurance  
755 Program as provided in Section 26-40-108.

756 [~~(16)~~] (15) The Children with Heart Disease Support Restricted Account created in  
757 Section 26-58-102.

758 [~~(17)~~] (16) The Technology Development Restricted Account created in Section  
759 31A-3-104.

760 [~~(18)~~] (17) The Criminal Background Check Restricted Account created in Section  
761 31A-3-105.

762 [~~(19)~~] (18) The Captive Insurance Restricted Account created in Section 31A-3-304,  
763 except to the extent that Section 31A-3-304 makes the money received under that section free  
764 revenue.

765 [~~(20)~~] (19) The Title Licensee Enforcement Restricted Account created in Section  
766 31A-23a-415.

767 [~~(21)~~] (20) The Health Insurance Actuarial Review Restricted Account created in  
768 Section 31A-30-115.

769 [~~(22)~~] (21) The Insurance Fraud Investigation Restricted Account created in Section

770 31A-31-108.  
771 [~~(23)~~] (22) The Underage Drinking Prevention Media and Education Campaign  
772 Restricted Account created in Section 32B-2-306.  
773 [~~(24)~~] (23) The Drinking While Pregnant Prevention Media and Education Campaign  
774 Restricted Account created in Section 32B-2-308.  
775 [~~(25)~~] (24) The School Readiness Restricted Account created in Section 35A-15-203.  
776 [~~(26)~~] (25) Money received by the Utah State Office of Rehabilitation for the sale of  
777 certain products or services, as provided in Section 35A-13-202.  
778 [~~(27)~~] (26) The Oil and Gas Administrative Penalties Account created in Section  
779 40-6-11.  
780 [~~(28)~~] (27) The Oil and Gas Conservation Account created in Section 40-6-14.5.  
781 [~~(29)~~] (28) The Division of Oil, Gas, and Mining Restricted account created in Section  
782 40-6-23.  
783 [~~(30)~~] (29) The Electronic Payment Fee Restricted Account created by Section  
784 41-1a-121 to the Motor Vehicle Division.  
785 [~~(31)~~] (30) The Motor Vehicle Enforcement Division Temporary Permit Restricted  
786 Account created by Section 41-3-110 to the State Tax Commission.  
787 [~~(32)~~] (31) The Utah Law Enforcement Memorial Support Restricted Account created  
788 in Section 53-1-120.  
789 [~~(33)~~] (32) The State Disaster Recovery Restricted Account to the Division of  
790 Emergency Management, as provided in Section 53-2a-603.  
791 [~~(34)~~] (33) The Post Disaster Recovery and Mitigation Restricted Account created in  
792 Section 53-2a-1302.  
793 [~~(35)~~] (34) The Department of Public Safety Restricted Account to the Department of  
794 Public Safety, as provided in Section 53-3-106.  
795 [~~(36)~~] (35) The Utah Highway Patrol Aero Bureau Restricted Account created in  
796 Section 53-8-303.  
797 [~~(37)~~] (36) The DNA Specimen Restricted Account created in Section 53-10-407.  
798 [~~(38)~~] (37) The Canine Body Armor Restricted Account created in Section 53-16-201.  
799 [~~(39)~~] (38) The Technical Colleges Capital Projects Fund created in Section  
800 53B-2a-118.

801            [~~(40)~~] (39) The Higher Education Capital Projects Fund created in Section  
802 [53B-22-202](#).

803            [~~(41)~~] (40) A certain portion of money collected for administrative costs under the  
804 School Institutional Trust Lands Management Act, as provided under Section [53C-3-202](#).

805            [~~(42)~~] (41) The Public Utility Regulatory Restricted Account created in Section  
806 [54-5-1.5](#), subject to Subsection [54-5-1.5\(4\)\(d\)](#).

807            [~~(43)~~] (42) Funds collected from a surcharge fee to provide certain licensees with  
808 access to an electronic reference library, as provided in Section [58-3a-105](#).

809            [~~(44)~~] (43) Certain fines collected by the Division of Professional Licensing for  
810 violation of unlawful or unprofessional conduct that are used for education and enforcement  
811 purposes, as provided in Section [58-17b-505](#).

812            [~~(45)~~] (44) Funds collected from a surcharge fee to provide certain licensees with  
813 access to an electronic reference library, as provided in Section [58-22-104](#).

814            [~~(46)~~] (45) Funds collected from a surcharge fee to provide certain licensees with  
815 access to an electronic reference library, as provided in Section [58-55-106](#).

816            [~~(47)~~] (46) Funds collected from a surcharge fee to provide certain licensees with  
817 access to an electronic reference library, as provided in Section [58-56-3.5](#).

818            [~~(48)~~] (47) Certain fines collected by the Division of Professional Licensing for use in  
819 education and enforcement of the Security Personnel Licensing Act, as provided in Section  
820 [58-63-103](#).

821            [~~(49)~~] (48) The Relative Value Study Restricted Account created in Section [59-9-105](#).

822            [~~(50)~~] (49) The Cigarette Tax Restricted Account created in Section [59-14-204](#).

823            [~~(51)~~] (50) Funds paid to the Division of Real Estate for the cost of a criminal  
824 background check for a mortgage loan license, as provided in Section [61-2c-202](#).

825            [~~(52)~~] (51) Funds paid to the Division of Real Estate for the cost of a criminal  
826 background check for principal broker, associate broker, and sales agent licenses, as provided  
827 in Section [61-2f-204](#).

828            [~~(53)~~] (52) Certain funds donated to the Department of Health and Human Services, as  
829 provided in Section [26B-1-202](#).

830            [~~(54)~~] (53) The National Professional Men's Basketball Team Support of Women and  
831 Children Issues Restricted Account created in Section [26B-1-302](#).

832            [~~(55)~~] (54) Certain funds donated to the Division of Child and Family Services, as  
833 provided in Section [80-2-404](#).

834            [~~(56)~~] (55) The Choose Life Adoption Support Restricted Account created in Section  
835 [80-2-502](#).

836            [~~(57)~~] (56) Funds collected by the Office of Administrative Rules for publishing, as  
837 provided in Section [63G-3-402](#).

838            [~~(58)~~] (57) The Immigration Act Restricted Account created in Section [63G-12-103](#).

839            [~~(59)~~] (58) Money received by the military installation development authority, as  
840 provided in Section [63H-1-504](#).

841            [~~(60)~~] (59) The Computer Aided Dispatch Restricted Account created in Section  
842 [63H-7a-303](#).

843            [~~(61)~~] (60) The Unified Statewide 911 Emergency Service Account created in Section  
844 [63H-7a-304](#).

845            [~~(62)~~] (61) The Utah Statewide Radio System Restricted Account created in Section  
846 [63H-7a-403](#).

847            [~~(63)~~] (62) The Utah Capital Investment Restricted Account created in Section  
848 [63N-6-204](#).

849            [~~(64)~~] (63) The Motion Picture Incentive Account created in Section [63N-8-103](#).

850            [~~(65)~~] (64) Certain money payable for expenses of the Pete Suazo Utah Athletic  
851 Commission, as provided under Section [63N-10-301](#).

852            [~~(66)~~] (65) Funds collected by the housing of state probationary inmates or state parole  
853 inmates, as provided in Subsection [64-13e-104\(2\)](#).

854            [~~(67)~~] (66) Certain forestry and fire control funds utilized by the Division of Forestry,  
855 Fire, and State Lands, as provided in Section [65A-8-103](#).

856            [~~(68)~~] (67) The Amusement Ride Safety Restricted Account, as provided in Section  
857 [72-16-204](#).

858            [~~(69)~~] (68) Certain funds received by the Office of the State Engineer for well drilling  
859 fines or bonds, as provided in Section [73-3-25](#).

860            [~~(70)~~] (69) The Water Resources Conservation and Development Fund, as provided in  
861 Section [73-23-2](#).

862            (70) Award money under the State Asset Forfeiture Grant Program, as provided under

863 Section 77-11b-403.

864 (71) Funds donated or paid to a juvenile court by private sources, as provided in

865 Subsection 78A-6-203(1)(c).

866 (72) Fees for certificate of admission created under Section 78A-9-102.

867 (73) Funds collected for adoption document access as provided in Sections 78B-6-141,  
868 78B-6-144, and 78B-6-144.5.

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

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

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

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

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

880 Section 15. Section 76-5-109.3 is amended to read:

881 **76-5-109.3. Child abandonment.**

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

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

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

885 (iii) "Serious physical injury" means the same as that term is defined in Section  
886 76-5-109.

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

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

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

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

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

894 (C) (I) intentionally fails to provide the child with food, shelter, or clothing;  
895 (II) manifests an intent to permanently not resume physical custody of the child; or  
896 (III) for a period of at least 30 days, intentionally fails to resume physical custody of  
897 the child and fails to manifest a genuine intent to resume physical custody of the child; or  
898 (ii) encourages or causes the parent or legal guardian of a child to violate Subsection  
899 (2)(a)(i).

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

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

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

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

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

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

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

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

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

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

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

922 (A) in a legal adoption proceeding; or

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

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

926 or

927 (iv) conduct described in Section 76-2-401.

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

929 **76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria --**  
930 **Seizure and disposition of property.**

931 (1) As used in this section:

932 (a) "Law enforcement officer" means the same as that term is defined in Section

933 53-13-103.

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

936 (i) cattle;

937 (ii) sheep;

938 (iii) goats;

939 (iv) swine;

940 (v) horses;

941 (vi) mules;

942 (vii) poultry;

943 (viii) domesticated elk as defined in Section 4-39-102; and

944 (ix) livestock guardian dogs.

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

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

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

950 (b) does so:

951 (i) intentionally or knowingly; and

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

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

- 956 (4) Wanton destruction of livestock is punishable as a:
- 957 (a) class B misdemeanor if the aggregate value of the livestock is \$250 or less;
- 958 (b) class A misdemeanor if the aggregate value of the livestock is more than \$250, but  
959 does not exceed \$750;
- 960 (c) third degree felony if the aggregate value of the livestock is more than \$750, but  
961 does not exceed \$5,000; and
- 962 (d) second degree felony if the aggregate value of the livestock is more than \$5,000.
- 963 (5) When a court orders a person who is convicted of wanton destruction of livestock  
964 to pay restitution under Title 77, Chapter 38b, Crime Victims Restitution Act, the court shall  
965 consider the restitution guidelines in Subsection (6) when setting the amount of restitution  
966 under Section [77-38b-205](#).
- 967 (6) The minimum restitution value for cattle and sheep is the sum of the following,  
968 unless the court states on the record why it finds the sum to be inappropriate:
- 969 (a) the fair market value of the animal, using as a guide the market information  
970 obtained from the Department of Agriculture and Food created under Section [4-2-102](#); and
- 971 (b) 10 years times the average annual value of offspring, for which average annual  
972 value is determined using data obtained from the National Agricultural Statistics Service within  
973 the United States Department of Agriculture, for the most recent 10-year period available.
- 974 (7) A material, device, or vehicle used in violation of Subsection (2) is subject to  
975 forfeiture under the procedures and substantive protections established in [~~Title 24, Forfeiture  
976 and Disposition of Property Act~~] Title 77, Chapter 11b, Forfeiture of Seized Property.
- 977 (8) A peace officer may seize a material, device, or vehicle used in violation of  
978 Subsection (2):
- 979 (a) upon notice and service of process issued by a court having jurisdiction over the  
980 property; or
- 981 (b) without notice and service of process if:
- 982 (i) the seizure is incident to an arrest under:
- 983 (A) a search warrant; or
- 984 (B) an inspection under an administrative inspection warrant;
- 985 (ii) the material, device, or vehicle has been the subject of a prior judgment in favor of  
986 the state in a criminal injunction or forfeiture proceeding under this section; or



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

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

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

993 (i) place the property under seal;

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

995 or

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

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

999 **76-6-501. Forgery and producing false identification -- Elements of offense --**

1000 **Definitions.**

1001 (1) As used in this part:

1002 (a) "Authentication feature" means any hologram, watermark, certification, symbol,  
1003 code, image, sequence of numbers or letters, or other feature that either individually or in  
1004 combination with another feature is used by the issuing authority on an identification  
1005 document, document-making implement, or means of identification to determine if the  
1006 document is counterfeit, altered, or otherwise falsified.

1007 (b) "Document-making implement" means any implement, impression, template,  
1008 computer file, computer disc, electronic device, computer hardware or software, or scanning  
1009 printing, or laminating equipment that is specifically configured or primarily used for making  
1010 an identification document, a false identification document, or another document-making  
1011 implement.

1012 (c) "False authentication feature" means an authentication feature that:

1013 (i) is genuine in origin but that, without the authorization of the issuing authority, has  
1014 been tampered with or altered for purposes of deceit;

1015 (ii) is genuine, but has been distributed, or is intended for distribution, without the  
1016 authorization of the issuing authority and not in connection with a lawfully made identification  
1017 document, document-making implement, or means of identification to which the authentication

1018 feature is intended to be affixed or embedded by the issuing authority; or

1019 (iii) appears to be genuine, but is not.

1020 (d) "False identification document" means a document of a type intended or commonly  
1021 accepted for the purposes of identification of individuals, and that:

1022 (i) is not issued by or under the authority of a governmental entity or was issued under  
1023 the authority of a governmental entity but was subsequently altered for purposes of deceit; and

1024 (ii) appears to be issued by or under the authority of a governmental entity.

1025 (e) "Governmental entity" means the United States government, a state, a political  
1026 subdivision of a state, a foreign government, a political subdivision of a foreign government, an  
1027 international governmental organization, or a quasi-governmental organization.

1028 (f) "Identification document" means a document made or issued by or under the  
1029 authority of a governmental entity, which, when completed with information concerning a  
1030 particular individual, is of a type intended or commonly accepted for the purpose of  
1031 identification of individuals.

1032 (g) "Issuing authority" means:

1033 (i) any governmental entity that is authorized to issue identification documents, means  
1034 of identification, or authentication features; or

1035 (ii) a business organization or financial institution or its agent that issues a financial  
1036 transaction card as defined in Section [76-6-506](#).

1037 (h) "Means of identification" means any name or number that may be used, alone or in  
1038 conjunction with any other information, to identify a specific individual, including:

1039 (i) name, social security number, date of birth, government issued driver license or  
1040 identification number, alien registration number, government passport number, or employer or  
1041 taxpayer identification number;

1042 (ii) unique biometric data, such as fingerprint, voice print, retina or iris image, or other  
1043 unique physical representation; or

1044 (iii) unique electronic identification number, address, or routing code.

1045 (i) "Personal identification card" means an identification document issued by a  
1046 governmental entity solely for the purpose of identification of an individual.

1047 (j) "Produce" includes altering, authenticating, or assembling.

1048 (k) "State" includes any state of the United States, the District of Columbia, the

1049 Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the  
1050 United States.

1051 (l) "Traffic" means to:

1052 (i) transport, transfer, or otherwise dispose of an item to another, as consideration for  
1053 anything of value; or

1054 (ii) make or obtain control of with intent to transport, transfer, or otherwise dispose of  
1055 an item to another.

1056 (m) "Writing" includes printing, electronic storage or transmission, or any other  
1057 method of recording valuable information including forms such as:

1058 (i) checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and any  
1059 other symbols of value, right, privilege, or identification;

1060 (ii) a security, revenue stamp, or any other instrument or writing issued by a  
1061 government or any agency; or

1062 (iii) a check, an issue of stocks, bonds, or any other instrument or writing representing  
1063 an interest in or claim against property, or a pecuniary interest in or claim against any person or  
1064 enterprise.

1065 (2) A person is guilty of forgery if, with purpose to defraud anyone, or with knowledge  
1066 that the person is facilitating a fraud to be perpetrated by anyone, the person:

1067 (a) alters any writing of another without his authority or utters the altered writing; or

1068 (b) makes, completes, executes, authenticates, issues, transfers, publishes, or utters any  
1069 writing so that the writing or the making, completion, execution, authentication, issuance,  
1070 transference, publication, or utterance:

1071 (i) purports to be the act of another, whether the person is existent or nonexistent;

1072 (ii) purports to be an act on behalf of another party with the authority of that other  
1073 party; or

1074 (iii) purports to have been executed at a time or place or in a numbered sequence other  
1075 than was in fact the case, or to be a copy of an original when an original did not exist.

1076 (3) It is not a defense to a charge of forgery under Subsection (2)(b)(ii) if an actor signs  
1077 his own name to the writing if the actor does not have authority to make, complete, execute,  
1078 authenticate, issue, transfer, publish, or utter the writing on behalf of the party for whom the  
1079 actor purports to act.

1080 (4) A person is guilty of producing or transferring any false identification document  
1081 who:

1082 (a) knowingly and without lawful authority produces, attempts, or conspires to produce  
1083 an identification document, authentication feature, or a false identification document that is or  
1084 appears to be issued by or under the authority of an issuing authority;

1085 (b) transfers, or possesses with intent to transfer, an identification document,  
1086 authentication feature, or a false identification document knowing that the document or feature  
1087 was stolen or produced without lawful authority;

1088 (c) produces, transfers, or possesses a document-making implement or authentication  
1089 feature with the intent that the document-making implement or the authentication feature be  
1090 used in the production of a false identification document or another document-making  
1091 implement or authentication feature; or

1092 (d) traffics in false or actual authentication features for use in false identification  
1093 documents, document-making implements, or means of identification.

1094 (5) A person who violates:

1095 (a) Subsection (2) is guilty of a third degree felony; and

1096 (b) Subsection (4) is guilty of a second degree felony.

1097 (6) This part may not be construed to impose criminal or civil liability on any law  
1098 enforcement officer acting within the scope of a criminal investigation.

1099 (7) The forfeiture of property under this part, including any seizure and disposition of  
1100 the property and any related judicial or administrative proceeding, shall be conducted in  
1101 accordance with [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77, Chapter 11b,  
1102 Forfeiture of Seized Property.

1103 (8) The court shall order, in addition to the penalty prescribed for any person convicted  
1104 of a violation of this section, the forfeiture and destruction or other disposition of all illicit  
1105 authentication features, identification documents, false transaction cards, document-making  
1106 implements, or means of identification.

1107 Section 18. Section **76-6-1303** is amended to read:

1108 **76-6-1303. Possession, sale, or use of automated sales suppression device unlawful**  
1109 **-- Penalties.**

1110 (1) It is a third degree felony to willfully or knowingly sell, purchase, install, transfer,

1111 use, or possess in this state any automated sales suppression device or phantomware with the  
1112 intent to defraud, except that any second or subsequent violation of this Subsection (1) is a  
1113 second degree felony.

1114 (2) Notwithstanding Section 76-3-301, any person convicted of violating Subsection  
1115 (1) may be fined not more than twice the amount of the applicable taxes that would otherwise  
1116 be due, but for the use of the automated sales suppression device or phantomware.

1117 (3) Any person convicted of a violation of Subsection (1):

1118 (a) is liable for all applicable taxes, penalties under Section 59-1-401, and interest  
1119 under Section 59-1-402 that would otherwise be due, but for the use of the automated sales  
1120 suppression device or phantomware to evade the payment of taxes; and

1121 (b) shall disgorge all profits associated with the sale or use of an automated sales  
1122 suppression device or phantomware.

1123 (4) An automated sales suppression device and any device containing an automated  
1124 sales suppression device is contraband and subject to forfeiture under [~~Title 24, Forfeiture and~~  
1125 ~~Disposition of Property Act~~] Title 77, Chapter 11b, Forfeiture of Seized Property.

1126 Section 19. Section 76-10-503 is amended to read:

1127 **76-10-503. Restrictions on possession, purchase, transfer, and ownership of**  
1128 **dangerous weapons by certain persons -- Exceptions.**

1129 (1) For purposes of this section:

1130 (a) A Category I restricted person is a person who:

1131 (i) has been convicted of any violent felony as defined in Section 76-3-203.5;

1132 (ii) is on probation or parole for any felony;

1133 (iii) is on parole from secure care, as defined in Section 80-1-102;

1134 (iv) within the last 10 years has been adjudicated under Section 80-6-701 for an offense

1135 which if committed by an adult would have been a violent felony as defined in Section

1136 76-3-203.5;

1137 (v) is an alien who is illegally or unlawfully in the United States; or

1138 (vi) is on probation for a conviction of possessing:

1139 (A) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;

1140 (B) a controlled substance analog; or

1141 (C) a substance listed in Section 58-37-4.2.

- 1142 (b) A Category II restricted person is a person who:
- 1143 (i) has been convicted of any felony;
- 1144 (ii) within the last seven years has been adjudicated delinquent for an offense which if
- 1145 committed by an adult would have been a felony;
- 1146 (iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;
- 1147 (iv) is in possession of a dangerous weapon and is knowingly and intentionally in
- 1148 unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;
- 1149 (v) has been found not guilty by reason of insanity for a felony offense;
- 1150 (vi) has been found mentally incompetent to stand trial for a felony offense;
- 1151 (vii) has been adjudicated as mentally defective as provided in the Brady Handgun
- 1152 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed
- 1153 to a mental institution;
- 1154 (viii) has been dishonorably discharged from the armed forces;
- 1155 (ix) has renounced the individual's citizenship after having been a citizen of the United
- 1156 States;
- 1157 (x) is a respondent or defendant subject to a protective order or child protective order
- 1158 that is issued after a hearing for which the respondent or defendant received actual notice and at
- 1159 which the respondent or defendant has an opportunity to participate, that restrains the
- 1160 respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that
- 1161 would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate
- 1162 partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate
- 1163 partner, and that:
- 1164 (A) includes a finding that the respondent or defendant represents a credible threat to
- 1165 the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C.
- 1166 Sec. 921 or the child of the individual; or
- 1167 (B) explicitly prohibits the use, attempted use, or threatened use of physical force that
- 1168 would reasonably be expected to cause bodily harm against an intimate partner or the child of
- 1169 an intimate partner; or
- 1170 (xi) has been convicted of the commission or attempted commission of assault under
- 1171 Section 76-5-102 or aggravated assault under Section 76-5-103 against a current or former
- 1172 spouse, parent, guardian, individual with whom the restricted person shares a child in common,

1173 individual who is cohabitating or has cohabitated with the restricted person as a spouse, parent,  
1174 or guardian, or against an individual similarly situated to a spouse, parent, or guardian of the  
1175 restricted person.

1176 (c) As used in this section, a conviction of a felony or adjudication of delinquency for  
1177 an offense which would be a felony if committed by an adult does not include:

1178 (i) a conviction or an adjudication under Section 80-6-701 for an offense pertaining to  
1179 antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to  
1180 the regulation of business practices not involving theft or fraud; or

1181 (ii) a conviction or an adjudication under Section 80-6-701 which, according to the law  
1182 of the jurisdiction in which it occurred, has been expunged, set aside, reduced to a  
1183 misdemeanor by court order, pardoned or regarding which the person's civil rights have been  
1184 restored unless the pardon, reduction, expungement, or restoration of civil rights expressly  
1185 provides that the person may not ship, transport, possess, or receive firearms.

1186 (d) It is the burden of the defendant in a criminal case to provide evidence that a  
1187 conviction or an adjudication under Section 80-6-701 is subject to an exception provided in  
1188 Subsection (1)(c), after which it is the burden of the state to prove beyond a reasonable doubt  
1189 that the conviction or the adjudication is not subject to that exception.

1190 (2) A Category I restricted person who intentionally or knowingly agrees, consents,  
1191 offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or  
1192 control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under  
1193 the person's custody or control:

1194 (a) any firearm is guilty of a second degree felony; or

1195 (b) any dangerous weapon other than a firearm is guilty of a third degree felony.

1196 (3) A Category II restricted person who intentionally or knowingly purchases, transfers,  
1197 possesses, uses, or has under the person's custody or control:

1198 (a) any firearm is guilty of a third degree felony; or

1199 (b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

1200 (4) A person may be subject to the restrictions of both categories at the same time.

1201 (5) If a higher penalty than is prescribed in this section is provided in another section  
1202 for one who purchases, transfers, possesses, uses, or has under this custody or control any  
1203 dangerous weapon, the penalties of that section control.

1204 (6) It is an affirmative defense to a charge based on the definition in Subsection  
1205 (1)(b)(iv) that the person was:

1206 (a) in possession of a controlled substance pursuant to a lawful order of a practitioner  
1207 for use of a member of the person's household or for administration to an animal owned by the  
1208 person or a member of the person's household; or

1209 (b) otherwise authorized by law to possess the substance.

1210 (7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon  
1211 by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

1212 (i) was possessed by the person or was under the person's custody or control before the  
1213 person became a restricted person;

1214 (ii) was not used in or possessed during the commission of a crime or subject to  
1215 disposition under [~~Section 24-3-103~~] Title 77, Chapter 11a, Part 6, Disposal of Seized Property  
1216 and Contraband;

1217 (iii) is not being held as evidence by a court or law enforcement agency;

1218 (iv) was transferred to a person not legally prohibited from possessing the weapon; and

1219 (v) unless a different time is ordered by the court, was transferred within 10 days of the  
1220 person becoming a restricted person.

1221 (b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person  
1222 of a firearm or other dangerous weapon by a restricted person.

1223 (8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or  
1224 dangerous weapon to any person, knowing that the recipient is a person described in  
1225 Subsection (1)(a) or (b).

1226 (b) A person who violates Subsection (8)(a) when the recipient is:

1227 (i) a person described in Subsection (1)(a) and the transaction involves a firearm, is  
1228 guilty of a second degree felony;

1229 (ii) a person described in Subsection (1)(a) and the transaction involves any dangerous  
1230 weapon other than a firearm, and the transferor has knowledge that the recipient intends to use  
1231 the weapon for any unlawful purpose, is guilty of a third degree felony;

1232 (iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is  
1233 guilty of a third degree felony; or

1234 (iv) a person described in Subsection (1)(b) and the transaction involves any dangerous



1235 weapon other than a firearm, and the transferor has knowledge that the recipient intends to use  
1236 the weapon for any unlawful purpose, is guilty of a class A misdemeanor.

1237 (9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or  
1238 other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under  
1239 circumstances which the person knows would be a violation of the law.

1240 (b) A person may not provide to a dealer or other person any information that the  
1241 person knows to be materially false information with intent to deceive the dealer or other  
1242 person about the legality of a sale, transfer or other disposition of a firearm or dangerous  
1243 weapon.

1244 (c) "Materially false information" means information that portrays an illegal transaction  
1245 as legal or a legal transaction as illegal.

1246 (d) A person who violates this Subsection (9) is guilty of:

1247 (i) a third degree felony if the transaction involved a firearm; or

1248 (ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a  
1249 firearm.

1250 Section 20. Section **76-10-1108** is amended to read:

1251 **76-10-1108. Seizure and disposition of gambling debts or proceeds.**

1252 Any gambling bets or gambling proceeds which are reasonably identifiable as having  
1253 been used or obtained in violation of this part may be seized and are subject to forfeiture  
1254 proceedings in accordance with [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77,  
1255 Chapter 11b, Forfeiture of Seized Property.

1256 Section 21. Section **76-10-1112** is amended to read:

1257 **76-10-1112. Local control.**

1258 (1) Nothing in this part preempts or otherwise limits the authority of a county or  
1259 municipality to enact a local ordinance related to gambling or fringe gambling.

1260 (2) In accordance with [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77,  
1261 Chapter 11a, Seizure and Retention of Property and Contraband, a county or municipality may

1262 seize gambling debts, gambling proceeds, or fringe gaming devices that are reasonably  
1263 identifiable as being obtained or provided in violation of this part or a local ordinance.

1264 Section 22. Section **77-11a-101**, which is renumbered from Section 24-1-102 is  
1265 renumbered and amended to read:

1266 CHAPTER 11a. SEIZURE AND RETENTION OF PROPERTY AND CONTRABAND

1267 Part 1. General Provisions

1268 ~~[24-1-102].~~ 77-11a-101. Definitions.

1269 As used in this ~~[title]~~ chapter:

1270 ~~[(1) "Account" means the Criminal Forfeiture Restricted Account created in Section~~  
1271 ~~24-4-116.]~~

1272 ~~[(2) (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not~~  
1273 ~~guilty.]~~

1274 ~~[(b) "Acquitted" does not include:]~~

1275 ~~[(i) a verdict of guilty on a lesser or reduced charge;]~~

1276 ~~[(ii) a plea of guilty to a lesser or reduced charge; or]~~

1277 ~~[(iii) dismissal of a charge as a result of a negotiated plea agreement.]~~

1278 ~~[(3)]~~ (1) (a) "Agency" means an agency of this state or a political subdivision of this  
1279 state.

1280 (b) "Agency" includes a law enforcement agency or a multijurisdictional task force.

1281 (2) (a) "Biological evidence" means an item that contains blood, semen, hair, saliva,  
1282 epithelial cells, latent fingerprint evidence that may contain biological material suitable for  
1283 DNA testing, or other identifiable human biological material that:

1284 (i) is collected as part of an investigation or prosecution of an offense; and

1285 (ii) may reasonably be used to incriminate or exculpate a person for the offense.

1286 (b) "Biological evidence" includes:

1287 (i) material that is catalogued separately, including:

1288 (A) on a slide or swab; or

1289 (B) inside a test tube, if the evidentiary sample that previously was inside the test tube  
1290 has been consumed by testing;

1291 (ii) material that is present on other evidence, including clothing, a ligature, bedding, a  
1292 drinking cup, a cigarette, or a weapon, from which a DNA profile may be obtained;

1293 (iii) the contents of a sexual assault examination kit; and

1294 (iv) for a violent felony offense, material described in this Subsection (2) that is in the  
1295 custody of an evidence collecting or retaining entity on May 4, 2022.

1296 ~~[(4)]~~ (3) "Claimant" means:

- 1297 (a) an owner of property [~~as defined in this section~~];
- 1298 (b) an interest holder [~~as defined in this section~~]; or
- 1299 (c) an individual or entity who asserts a claim to any property [~~seized for forfeiture~~
- 1300 ~~under this title] for which an agency seeks to forfeit.~~
- 1301 [~~(5) "Commission" means the State Commission on Criminal and Juvenile Justice~~
- 1302 ~~created in Section 63M-7-201.~~]
- 1303 [~~(6) "Complaint" means a civil or criminal complaint seeking the forfeiture of any real~~
- 1304 ~~or personal property under this title.~~]
- 1305 [(7)] (4) (a) "Computer" means an electronic, magnetic, optical, electrochemical, or
- 1306 other high-speed data processing device that performs logical, arithmetic, and storage
- 1307 functions.
- 1308 (b) "Computer" includes any device that is used for the storage of digital or electronic
- 1309 files, flash memory, software, or other electronic information.
- 1310 (c) "Computer" does not mean a computer server of an Internet or electronic service
- 1311 provider, or the service provider's employee, if used to comply with the requirements under 18
- 1312 U.S.C. Sec. 2258A.
- 1313 [~~(8) "Constructive seizure" means a seizure of property where the property is left in the~~
- 1314 ~~control of the owner and an agency posts the property with a notice of intent to seek forfeiture.]~~
- 1315 (5) "Continuous chain of custody" means:
- 1316 (a) for a law enforcement agency or a court, that legal standards regarding a continuous
- 1317 chain of custody are maintained; and
- 1318 (b) for an entity that is not a law enforcement agency or a court, that the entity
- 1319 maintains a record in accordance with legal standards required of the entity.
- 1320 [(9)] (6) (a) "Contraband" means any property, item, or substance that is unlawful to
- 1321 produce or to possess under state or federal law.
- 1322 (b) "Contraband" includes:
- 1323 (i) a controlled substance that is possessed, transferred, distributed, or offered for
- 1324 distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act; [or]
- 1325 (ii) a computer that:
- 1326 (A) contains or houses child pornography, or is used to create, download, transfer,
- 1327 upload to a storage account, or store any electronic or digital files containing child

1328 pornography; or

1329 (B) contains the personal identifying information of another individual, as defined in  
1330 Subsection [76-6-1102](#)(1), whether that individual is alive or deceased, and the personal  
1331 identifying information has been used to create false or fraudulent identification documents or  
1332 financial transaction cards in violation of Title 76, Chapter 6, Part 5, Fraud[-]; or

1333 (iii) protected wildlife illegally taken or held.

1334 (7) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

1335 (8) "Court" means a municipal, county, or state court.

1336 (9) "DNA" means deoxyribonucleic acid.

1337 (10) "DNA profile" means a unique identifier of an individual derived from DNA.

1338 (11) "Drug paraphernalia" means the same as that term is defined in Section [58-37a-3](#).

1339 (12) "Evidence" means property, contraband, or an item or substance that:

1340 (a) is seized or collected as part of an investigation or prosecution of an offense; and

1341 (b) may reasonably be used to incriminate or exculpate an individual for an offense.

1342 (13) (a) "Evidence collecting or retaining entity" means an entity within the state that  
1343 collects, stores, or retrieves biological evidence.

1344 (b) "Evidence collecting or retaining entity" includes:

1345 (i) a medical or forensic entity;

1346 (ii) a law enforcement agency;

1347 (iii) a court; and

1348 (iv) an official, employee, or agent of an entity or agency described in this Subsection  
1349 (13).

1350 (14) "Exhibit" means property or contraband that is admitted into evidence for a court  
1351 proceeding.

1352 ~~[(10)]~~ (15) "Forfeit" means to divest a claimant of an ownership interest in property  
1353 seized ~~[under this title]~~ by a peace officer or agency.

1354 (16) "In custody" means an individual who:

1355 (a) is incarcerated, civilly committed, on parole, or on probation; or

1356 (b) is required to register under Title 77, Chapter 41, Sex and Kidnap Offender  
1357 Registry.

1358 ~~[(11)]~~ (17) "Innocent owner" means a claimant who:

1359 (a) held an ownership interest in property at the time of the commission of an offense  
1360 subjecting the property to [~~forfeiture under this title~~] seizure, and:

1361 (i) did not have actual knowledge of the offense subjecting the property to [~~forfeiture~~]  
1362 seizure; or

1363 (ii) upon learning of the commission of the offense, took reasonable steps to prohibit  
1364 the use of the property in the commission of the offense; or

1365 (b) acquired an ownership interest in the property and had no knowledge that the  
1366 commission of the offense subjecting the property to [~~forfeiture under this title~~] seizure had  
1367 occurred or that the property had been seized [~~for forfeiture~~], and:

1368 (i) acquired the property in a bona fide transaction for value;

1369 (ii) was an individual, including a minor child, who acquired an interest in the property  
1370 through probate or inheritance; or

1371 (iii) was a spouse who acquired an interest in property through dissolution of marriage  
1372 or by operation of law.

1373 [~~(12)~~] (18) (a) "Interest holder" means a secured party as defined in Section  
1374 [70A-9a-102](#), a party with a right-of-offset, a mortgagee, lien creditor, or the beneficiary of a  
1375 security interest or encumbrance pertaining to an interest in property, whose interest would be  
1376 perfected against a good faith purchaser for value.

1377 (b) "Interest holder" does not mean a person:

1378 (i) who holds property for the benefit of or as an agent or nominee for another person;

1379 or

1380 (ii) who is not in substantial compliance with any statute requiring an interest in  
1381 property to be:

1382 (A) recorded or reflected in public records in order to perfect the interest against a good  
1383 faith purchaser for value; or

1384 (B) held in control by a secured party, as defined in Section [70A-9a-102](#), in accordance  
1385 with Section [70A-9a-314](#) in order to perfect the interest against a good faith purchaser for  
1386 value.

1387 (19) "Law enforcement agency" means:

1388 (a) a municipal, county, state institution of higher education, or state police force or  
1389 department;

1390 (b) a sheriff's office; or

1391 (c) a municipal, county, or state prosecuting authority.

1392 ~~[(13) "Known address" means any address provided by a claimant to the peace officer~~  
1393 ~~or agency at the time the property is seized, or the claimant's most recent address on record~~  
1394 ~~with a governmental entity if no address was provided at the time of the seizure.]~~

1395 ~~[(14) "Legal costs" means the costs and expenses incurred by a party in a forfeiture~~  
1396 ~~action.]~~

1397 ~~[(15)]~~ (20) "Legislative body" means:

1398 (a) (i) the Legislature, county commission, county council, city commission, city  
1399 council, or town council that has fiscal oversight and budgetary approval authority over an  
1400 agency; or

1401 (ii) the agency's governing political subdivision; or

1402 (b) the lead governmental entity of a multijurisdictional task force, as designated in a  
1403 memorandum of understanding executed by the agencies participating in the task force.

1404 (21) "Medical or forensic entity" means a private or public hospital, medical facility, or  
1405 other entity that secures biological evidence or conducts forensic examinations related to  
1406 criminal investigations.

1407 ~~[(16)]~~ (22) "Multijurisdictional task force" means a law enforcement task force or other  
1408 agency comprised of individuals who are employed by or acting under the authority of different  
1409 governmental entities, including federal, state, county, or municipal governments, or any  
1410 combination of federal, state, county, or municipal agencies.

1411 ~~[(17)]~~ (23) "Owner" means an individual or entity, other than an interest holder, that  
1412 possesses a bona fide legal or equitable interest in ~~[real or personal]~~ property.

1413 (24) "Pawn or secondhand business" means the same as that term is defined in Section  
1414 [13-32a-102](#).

1415 ~~[(18)]~~ (25) "Peace officer" means an employee:

1416 (a) of an agency;

1417 (b) whose duties consist primarily of the prevention and detection of violations of laws  
1418 of this state or a political subdivision of this state; and

1419 (c) who is authorized by the agency to seize property ~~[under this title]~~.

1420 (26) "Physical evidence" includes evidence that:

- 1421 (a) is related to:
- 1422 (i) an investigation;
- 1423 (ii) an arrest; or
- 1424 (iii) a prosecution that resulted in a judgment of conviction; and
- 1425 (b) is in the actual or constructive possession of a law enforcement agency or a court or
- 1426 an agent of a law enforcement agency or a court.
- 1427 ~~[(19)]~~ (27) (a) "Proceeds" means:
- 1428 (i) property of any kind that is obtained directly or indirectly as a result of the
- 1429 commission of an offense; or
- 1430 (ii) any property acquired directly or indirectly from, produced through, realized
- 1431 through, or caused by an act or omission regarding property under Subsection ~~[(19)(a)(i)]~~
- 1432 (27)(a)(i).
- 1433 (b) "Proceeds" includes any property of any kind without reduction for expenses
- 1434 incurred in the acquisition, maintenance, or production of that property, or any other purpose
- 1435 regarding property under Subsection ~~[(19)(a)(i)]~~ (27)(a)(i).
- 1436 (c) "Proceeds" is not limited to the net gain or profit realized from the offense that
- 1437 subjects the property to ~~[forfeiture]~~ seizure.
- 1438 ~~[(20) "Program" means the State Asset Forfeiture Grant Program created in Section~~
- 1439 ~~24-4-117.]~~
- 1440 ~~[(21)]~~ (28) (a) "Property" means all property, whether real or personal, tangible or
- 1441 intangible.
- 1442 (b) "Property" does not include contraband.
- 1443 ~~[(22)]~~ (29) "Prosecuting attorney" means:
- 1444 (a) the attorney general and an assistant attorney general;
- 1445 (b) a district attorney or deputy district attorney;
- 1446 (c) a county attorney or assistant county attorney; and
- 1447 (d) an attorney authorized to commence an action on behalf of the state ~~[under this~~
- 1448 ~~title].~~
- 1449 (30) "Protected wildlife" means the same as that term is defined in Section 23-20-2.
- 1450 ~~[(23)]~~ (31) "Public interest use" means a:
- 1451 (a) use by a government agency as determined by the legislative body of the agency's

1452 jurisdiction; or

1453 (b) donation of the property to a nonprofit charity registered with the state.

1454 (32) (a) "Seized property" means property seized by a peace officer or agency in  
1455 accordance with Section 77-11a-201.

1456 (b) "Seized property" includes property that the agency seeks to forfeit under Chapter  
1457 11b, Forfeiture of Seized Property.

1458 [~~24~~] (33) "Real property" means land, including any building, fixture, improvement,  
1459 appurtenance, structure, or other development that is affixed permanently to land.

1460 (34) "Wildlife" means the same as that term is defined in Section 23-13-2.

1461 (35) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

1462 Section 23. Section **77-11a-102**, which is renumbered from Section 24-1-103 is  
1463 renumbered and amended to read:

1464 [~~24-1-103~~]. **77-11a-102. Venue.**

1465 (1) In addition to [~~the venue provided for under~~] Title 78B, Chapter 3, Part 3, Place of  
1466 Trial -- Venue, or any other [~~provisions of law, a proceeding under this title may be~~  
1467 ~~maintained~~] provision of law, a person may bring an action or proceeding under this chapter in  
1468 the judicial district in which:

1469 (a) the property is seized; or

1470 (b) any part of the property is found[~~; or~~].

1471 [~~(c) a civil or criminal action could be maintained against a claimant for the offense~~  
1472 ~~subjecting the property to forfeiture under this title.~~]

1473 (2) A claimant may obtain a change of venue under Section 78B-3-309.

1474 Section 24. Section **77-11a-201**, which is renumbered from Section 24-2-102 is  
1475 renumbered and amended to read:

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

1476 [~~24-2-102~~]. **77-11a-201. Grounds for seizing property and contraband.**

1477 [~~1~~] A peace officer may seize property [~~and~~] or contraband:

1478 (1) upon a search warrant or administrative warrant that is issued in accordance with  
1480 the Utah Code and the Utah Rules of Criminal Procedure[~~;~~];

1481 [~~2~~] A peace officer may seize property and contraband under this chapter when:

1482 [~~a~~] (2) when the seizure is incident to an arrest;



1483            ~~[(b)]~~ (3) when the property seized is the subject of a prior judgment in favor of the state  
1484 in a criminal injunction or forfeiture proceeding under ~~[this title]~~ Chapter 11b, Forfeiture of  
1485 Seized Property; or

1486            ~~[(c)]~~ (4) when the peace officer has probable cause to believe that the property or  
1487 contraband:

1488            ~~[(i)]~~ (a) is directly or indirectly dangerous to health or safety;

1489            ~~[(ii)]~~ (b) is evidence of an offense;

1490            ~~[(iii)]~~ (c) has been used or was intended to be used to commit an offense; or

1491            ~~[(iv)]~~ (d) is proceeds of an offense.

1492            Section 25. Section **77-11a-202**, which is renumbered from Section 24-2-102.5 is  
1493 renumbered and amended to read:

1494            ~~[24-2-102.5].~~            **77-11a-202. Ownership interest in property or contraband**  
1495 **seized by a peace officer.**

1496            (1) To disclaim an ownership interest in property at the time of seizure, a person's  
1497 disclaimer of the property must be knowing and voluntary.

1498            (2) ~~[If a peace officer seizes contraband, a]~~ A person may not assert an ownership  
1499 interest in ~~[the contraband under this title]~~ contraband seized by a peace officer.

1500            Section 26. Section **77-11a-203**, which is renumbered from Section 24-2-103 is  
1501 renumbered and amended to read:

1502            ~~[24-2-103].~~            **77-11a-203. Procedure after seizure of property or contraband.**

1503            ~~[(1) To disclaim an ownership interest in property at the time of seizure, an individual's~~  
1504 ~~disclaimer of the property shall be knowing and voluntary.]~~

1505            (1) If a peace officer seizes property or contraband under Section [77-11a-201](#), the  
1506 property and contraband:

1507            (a) is not recoverable by replevin; and

1508            (b) is considered in the custody of the agency that employed the peace officer.

1509            (2) If property is seized, the peace officer or the peace officer's employing agency shall  
1510 provide a receipt to the person from which the property is seized.

1511            (3) The receipt shall describe the:

1512            (a) property seized;

1513            (b) date of seizure; and

- 1514 (c) name and contact information of the peace officer's employing agency.
- 1515 (4) In addition to the receipt, the peace officer or agency shall provide the person with:
- 1516 (a) information on:
- 1517 (i) the time periods for the forfeiture of property; and
- 1518 (ii) what happens to property upon a conviction or acquittal of the offense subjecting
- 1519 the property to seizure; and
- 1520 (b) a web link or referral to the self-help webpage of the Utah Courts' website for
- 1521 resources that may assist the person in making a claim for the return of seized property.
- 1522 (5) The agency shall maintain a copy of the receipt provided in accordance with
- 1523 Subsection (2).
- 1524 (6) If a peace officer seizes property that at the time of seizure is held by a pawn or
- 1525 secondhand business in the course of the pawn or secondhand business's business, the
- 1526 provisions of Section 13-32a-109.5 shall apply to the seizure of the property.
- 1527 ~~[(6)]~~ (7) If custody of the property is transferred to another agency, the transferring
- 1528 agency shall provide the other agency a copy of the receipt under Subsection (2) and the name
- 1529 of the person from which the property was seized.
- 1530 Section 27. Section ~~77-11a-204~~, which is renumbered from Section 24-2-104 is
- 1531 renumbered and amended to read:
- 1532 ~~[24-2-104].~~ **77-11a-204. Custody of seized property and contraband.**
- 1533 ~~[(1) If a peace officer seizes property or contraband under Section 24-2-102, the~~
- 1534 ~~property and contraband:]~~
- 1535 ~~[(a) is not recoverable by replevin; and]~~
- 1536 ~~[(b) is considered in the custody of the agency that employed the peace officer.]~~
- 1537 ~~[(2)]~~ (1) An agency with custody of seized property or contraband shall:
- 1538 (a) hold the property or contraband in safe custody until the property or contraband is
- 1539 released or disposed of in accordance with[:] this chapter; and
- 1540 ~~[(i) this title; and]~~
- 1541 ~~[(ii) Title 53, Chapter 20, Forensic Biological Evidence Preservation; and]~~
- 1542 (b) maintain a record of the property or contraband, including:
- 1543 (i) a detailed inventory of all property or contraband seized;
- 1544 (ii) the name of the person from which the property or contraband was seized; and

1545 (iii) the agency's case number.

1546 [~~(3)~~ ~~In accordance with Title 53, Chapter 20, Forensic Biological Evidence~~  
 1547 ~~Preservation, an agency may process property or contraband that is seized by a peace officer for~~  
 1548 ~~evidentiary or investigative purposes, including sampling or other preservation procedure,~~  
 1549 ~~before disposal or destruction.~~]

1550 [~~(4)~~] (2) (a) Except as provided in Subsection [~~(4)(b)~~] (2)(b), no later than 30 days after  
 1551 the day on which a peace officer seizes property in the form of cash or other readily negotiable  
 1552 instruments [~~under Section 24-2-102~~], an agency shall deposit the property into a separate,  
 1553 restricted, interest-bearing account maintained by the agency solely for the purpose of  
 1554 managing and protecting the property from commingling, loss, or devaluation.

1555 (b) A prosecuting attorney may authorize one or more written extensions of the 30-day  
 1556 period under Subsection [~~(4)(a)~~] (2)(a) if the property needs to maintain the form in which the  
 1557 property was seized for evidentiary purposes or other good cause.

1558 [~~(c)~~] (3) An agency shall:

1559 [~~(i)~~] (a) have written policies for the identification, tracking, management, and  
 1560 safekeeping of seized property and contraband; and

1561 [~~(ii)~~] (b) shall have a written policy that prohibits the transfer, sale, or auction of seized  
 1562 property and contraband to an employee of the agency.

1563 Section 28. Section **77-11a-205**, which is renumbered from Section 24-2-105 is  
 1564 renumbered and amended to read:

1565 **[24-2-105]. 77-11a-205. Transfer or release of seized property to another**  
 1566 **governmental entity -- Requirements.**

1567 (1) Except as provided in Subsections [~~(3)(a), (b), and (c)~~], (3)(a) through (c), upon the  
 1568 seizure of property by a peace officer [~~under this title~~], the property is subject to the exclusive  
 1569 jurisdiction of a district court of this state.

1570 (2) Except as provided in Subsection (3), a peace officer, agency, or prosecuting  
 1571 attorney may not directly or indirectly transfer or release [~~property seized under this title~~]  
 1572 seized property to a federal agency or to a governmental entity not created or subject to the  
 1573 laws of this state.

1574 (3) An agency or prosecuting attorney may transfer or release seized property to a  
 1575 federal agency or to a governmental entity not created or subject to the laws of this state if:

- 1576 (a) (i) the property is cash or another readily negotiable instrument; and  
1577 (ii) the property is evidence in, or subject to, a federal criminal indictment, a federal  
1578 criminal information, or a federal criminal complaint that is filed before the property is seized;
- 1579 (b) (i) the property is not cash or another readily negotiable instrument; and  
1580 (ii) the property is evidence in, or subject to, a federal criminal indictment, a federal  
1581 criminal information, or a federal criminal complaint that is filed before the day on which the  
1582 agency with custody of the property is required to return the property if no criminal or civil  
1583 action is filed by the prosecuting attorney or a federal prosecutor in accordance with Section  
1584 ~~[24-4-103.5]~~ [77-11b-203](#);
- 1585 (c) (i) the property was used in the commission of an offense in another state; and  
1586 (ii) an agency of that state requests the transfer of the property before the day on which  
1587 the agency with custody of the property is required to return the property if no criminal or civil  
1588 action is filed by the prosecuting attorney or a federal prosecutor in accordance with Section  
1589 ~~[24-4-103.5]~~ [77-11b-203](#); or
- 1590 (d) a district court authorizes, in accordance with Subsection (5), the transfer or release  
1591 of the property to an agency of another state or a federal agency upon a petition by a  
1592 prosecuting attorney or a federal prosecutor.
- 1593 (4) (a) A prosecuting attorney, or a federal prosecutor, may file a petition in the district  
1594 court for the transfer or release of seized property.
- 1595 (b) If a prosecuting attorney, or a federal prosecutor, files a petition under Subsection  
1596 (4)(a), the petition shall include:
- 1597 (i) a detailed description of the property seized;  
1598 (ii) the location where the property was seized;  
1599 (iii) the date the property was seized;  
1600 (iv) the case number assigned by the agency; and  
1601 (v) a declaration that:
- 1602 (A) states the basis for relinquishing jurisdiction to a federal agency or an agency of  
1603 another state;  
1604 (B) contains the names and addresses of any known claimant; and  
1605 (C) is signed by the prosecuting attorney or federal prosecutor.
- 1606 (5) A district court may not authorize the transfer or release of seized property under

- 1607 Subsection (3)(d), unless the district court finds, by a preponderance of the evidence:
- 1608       (a) the property is evidence in, or subject to, a federal criminal indictment, a federal  
1609 criminal information, or a federal criminal complaint after the property is seized;
- 1610       (b) the property may only be forfeited under federal law;
- 1611       (c) forfeiting the property under state law would unreasonably burden the prosecuting  
1612 attorney or agency; or
- 1613       (d) the property was subject to a federal criminal investigation before the property was  
1614 seized.
- 1615       (6) (a) Before a district court may order the transfer of seized property in accordance  
1616 with this section, the court, the prosecuting attorney, or the federal prosecutor shall mail a  
1617 notice to:
- 1618           (i) each address contained in the declaration under Subsection (4)(b)(v) to give a  
1619 claimant the right to be heard with regard to the transfer; and
- 1620           (ii) (A) if a federal prosecutor files the petition under Subsection (4), the prosecuting  
1621 attorney that is representing the agency with custody of the property; or
- 1622               (B) if a prosecuting attorney files the petition under Subsection (4), the federal  
1623 prosecutor who will receive the property upon the transfer or release of the property.
- 1624       (b) If a claimant, or the party under Subsection (6)(a)(i), does not object to the petition  
1625 to transfer the property within 10 days after the day on which the notice is mailed, the district  
1626 court shall issue the district court's order in accordance with this section.
- 1627       (c) If the declaration does not include an address for a claimant, the district court shall  
1628 delay the district court's order under this section for 20 days to allow time for the claimant to  
1629 appear and make an objection.
- 1630       (d) (i) If a claimant, or a party under Subsection (6)(a)(i), contests a petition to transfer  
1631 the property to a federal agency or to another governmental entity not created or subject to the  
1632 laws of this state, the district court shall promptly set the matter for hearing.
- 1633           (ii) In making a determination under Subsection (5), the district court shall consider  
1634 evidence regarding hardship, complexity, judicial and law enforcement resources, protections  
1635 afforded under state and federal law, pending state or federal investigations, and any other  
1636 relevant matter.
- 1637       (7) If an agency receives property, money, or other things of value under a federal law

1638 that authorizes the sharing or transfer of all or a portion of forfeited property, or the proceeds  
1639 from the sale of forfeited property, the agency:

1640 (a) shall use the property, money, or other things of value in compliance with federal  
1641 laws and regulations relating to equitable sharing;

1642 (b) may use the property, money, or other things of value for a law enforcement  
1643 purpose described in Subsection ~~[24-4-117(10)]~~ 77-11b-403(10); and

1644 (c) may not use the property, money, or other thing of value for a law enforcement  
1645 purpose prohibited in Subsection ~~[24-4-117(11)]~~ 77-11b-403(11).

1646 (8) An agency awarded an equitable share of property forfeited by the federal  
1647 government may use the award money only after approval of the use by the agency's legislative  
1648 body.

1649 (9) If a district court exercises exclusive jurisdiction over seized property, the district  
1650 court's exclusive jurisdiction is terminated if the property is released by the agency with  
1651 custody of the property to a claimant under:

1652 (a) Part 5, Release of Property to Claimant; or

1653 (b) Section 77-11b-203.[:]

1654 [~~(a) a claimant under Subsection 24-2-107(1)(a), Section 24-3-104, or Section~~  
1655 ~~24-4-103.5;~~]

1656 [~~(b) a rightful owner under Section 24-3-103; or]~~

1657 [~~(c) an innocent owner or an interest holder under Section 24-2-108.]~~

1658 Section 29. Section **77-11a-301** is enacted to read:

1659 **Part 3. Retention of Property and Contraband as Evidence**

1660 **77-11a-301. Retention of evidence -- Time period for retention.**

1661 (1) An agency shall retain property or contraband that is evidence of an offense in  
1662 accordance with this part.

1663 (2) If an agency determines that property or contraband is evidence of an offense, the  
1664 agency shall retain the property or contraband for the longer of:

1665 (a) the length of the statute of limitations for the offense if:

1666 (i) no charges are filed for the offense; or

1667 (ii) the offense remains unsolved;

1668 (b) 60 days after the day on which any individual is convicted and sentenced for the

1669 offense if:  
1670 (i) each individual charged with the offense has been convicted and sentenced by a  
1671 justice court; and  
1672 (ii) there is no appeal pending in the district court for a trial de novo for any individual  
1673 convicted and sentenced for the offense;  
1674 (c) 30 days after the day on which any individual is convicted and sentenced for the  
1675 offense by a district court on a trial de novo from the justice court if:  
1676 (i) each individual charged with the offense has been convicted and sentenced by a  
1677 justice court or by a district court on a trial de novo from the justice court; and  
1678 (ii) there is no appeal pending in the district court for a trial de novo for any individual  
1679 convicted and sentenced for the offense;  
1680 (d) except as provided in Subsection (2)(e), 60 days after the day on which any  
1681 individual is convicted and sentenced for the offense if:  
1682 (i) a class A misdemeanor or felony offense is the highest level of offense for which  
1683 any individual is convicted or sentenced;  
1684 (ii) each individual charged with the offense has been convicted and sentenced by a  
1685 district court; and  
1686 (iii) there is no appeal pending in an appellate court for any individual convicted and  
1687 sentenced for the offense; or  
1688 (e) the time period described in Subsection [77-11a-401](#)(2) if the property or contraband  
1689 is biological evidence of a violent felony offense.  
1690 (3) An agency shall ensure that property or contraband retained as evidence is subject  
1691 to a continuous chain of custody.  
1692 (4) An agency is not required to retain property or contraband as evidence under  
1693 Subsection (2) if:  
1694 (a) (i) the agency determines that:  
1695 (A) the size, bulk, or physical character renders retention of the property or contraband  
1696 impracticable; or  
1697 (B) the property or contraband poses a security or safety problem for the agency;  
1698 (ii) the agency preserves sufficient evidence from the property or contraband for use as  
1699 evidence in a prosecution of an individual for the offense in accordance with Section

1700 [77-11a-302](#);

1701 (iii) the agency sends a written request under Subsection [77-11a-303\(1\)](#) to the  
1702 prosecuting attorney for permission to release or dispose of the property or contraband; and

1703 (iv) the prosecuting attorney grants the agency's written request in accordance with  
1704 Section [77-11a-303](#);

1705 (b) a court orders the agency to return the property to a claimant under Section  
1706 [77-11a-505](#); or

1707 (c) the property or contraband is wildlife.

1708 (5) (a) Subsection (4) does not apply to property or contraband that is biological  
1709 evidence of a violent felony offense.

1710 (b) Subsection (4)(a) does not apply when the release or disposal of property or  
1711 contraband is in compliance with a memorandum of understanding between the agency and the  
1712 prosecuting attorney.

1713 (6) Subsections (2) and (4) do not require an agency to return or dispose of property or  
1714 contraband that is evidence of an offense.

1715 (7) When property is no longer subject to retention for use as evidence in the  
1716 prosecution of an individual for an offense, the agency shall:

1717 (a) return the property to a claimant under Part 5, Release of Property to Claimant; or

1718 (b) dispose of the property in accordance with Part 6, Disposal of Seized Property and  
1719 Contraband.

1720 (8) When contraband is no longer subject to retention for use as evidence in the  
1721 prosecution of an individual for the offense, the agency shall dispose of the contraband in  
1722 accordance with Part 6, Disposal of Seized Property and Contraband.

1723 Section 30. Section **77-11a-302** is enacted to read:

1724 **77-11a-302. Preservation of evidence from property or contraband.**

1725 (1) If contraband is a controlled substance, an agency shall preserve sufficient evidence  
1726 from the controlled substance by:

1727 (a) collecting and preserving a sample of the controlled substance and a sample of  
1728 biological evidence from the controlled substance for independent testing and use as evidence;

1729 (b) taking a photographic or video record of the controlled substance with identifying  
1730 case numbers;



- 1731 (c) completing a written chemical report of the controlled substance; and  
1732 (d) if the controlled substance exceeds 10 pounds, retain at least one pound of the  
1733 controlled substance that is randomly selected from the controlled substance.
- 1734 (2) If contraband is drug paraphernalia, an agency shall preserve sufficient evidence  
1735 from the drug paraphernalia by:
- 1736 (a) collecting and preserving a sample of the controlled substance from the drug  
1737 paraphernalia and a sample of biological evidence from the drug paraphernalia for independent  
1738 testing and use as evidence;
- 1739 (b) completing a written chemical report of the drug paraphernalia; and  
1740 (c) taking a photographic or video record of the drug paraphernalia with identifying  
1741 case numbers.
- 1742 (3) If contraband or property is a computer, the agency shall preserve sufficient  
1743 evidence from the computer by:
- 1744 (a) extracting all data from the computer that would be evidence in a prosecution of an  
1745 individual for the offense;
- 1746 (b) collecting a sample of biological evidence from the computer for independent  
1747 testing and use as evidence; and
- 1748 (c) taking a photographic or video record of the computer with identifying case  
1749 numbers.
- 1750 (4) For any other type of property or contraband, the agency shall preserve sufficient  
1751 evidence from the property or contraband by:
- 1752 (a) collecting and preserving a sample of biological evidence from the property or  
1753 contraband for independent testing and use as evidence; and
- 1754 (b) taking a photographic or video record of the property or contraband with  
1755 identifying case numbers.
- 1756 (5) Notwithstanding this section, any property or contraband that is biological evidence  
1757 of a violent felony offense is preserved in accordance with Section [77-11a-401](#).
- 1758 Section 31. Section **77-11a-303** is enacted to read:
- 1759 **77-11a-303. Request to prosecuting attorney by agency -- Notification to**  
1760 **defendant.**
- 1761 (1) If an agency determines that the agency is not required to retain property or

1762 contraband as evidence under Subsection 77-11a-301(4)(a)(i) and the agency seeks to release  
1763 or dispose of the property or contraband, the agency shall send a written request to the  
1764 prosecuting attorney that:

1765 (a) identifies the property or contraband;

1766 (b) explains the reason for which the agency is not required to retain the property or  
1767 contraband under Subsection 77-11a-301(4)(a)(i); and

1768 (c) explains the steps that the agency will take, or has taken, to preserve sufficient  
1769 evidence from the property or contraband for use as evidence in a prosecution of an individual  
1770 for the offense.

1771 (2) If the prosecuting attorney receives a written request under Subsection (1) and  
1772 determines that the agency needs to retain the property or contraband as evidence in the  
1773 prosecution of an individual for the offense, the prosecuting attorney shall send a written  
1774 notification to the agency that explains the reason for which the prosecuting attorney is denying  
1775 the agency's request.

1776 (3) If the prosecuting attorney receives a written request under Subsection (1) and  
1777 determines that the agency does not need to retain the property or contraband as evidence in the  
1778 prosecution of an individual for the offense, the prosecuting attorney shall provide written  
1779 notice of the intent to not retain the property or contraband as evidence that:

1780 (a) is sent by certified mail, return receipt requested, or a delivery service that provides  
1781 proof of delivery, to:

1782 (i) any individual charged with or convicted and sentenced for the offense; and

1783 (ii) the individual's most recent attorney of record; and

1784 (b) explains that the individual receiving the notice may submit a written objection to  
1785 the prosecuting attorney.

1786 (4) (a) An individual, who is charged with or convicted and sentence for the offense,  
1787 may submit a written objection to the disposal or release of the property or contraband by the  
1788 agency no later than 30 days after the day on which the prosecuting attorney receives proof of  
1789 delivery under Subsection (3).

1790 (b) If an individual submits a written objection under Subsection (4)(a), the prosecuting  
1791 attorney shall send a written notification to the agency that explains the reason for which the  
1792 prosecuting attorney is denying the agency's request.

1793 (c) If the prosecuting attorney does not receive a written objection within the time  
1794 period described in Subsection (4)(a), the prosecuting attorney shall send a written notification  
1795 to the agency that grants the agency's request to release or dispose of the property or  
1796 contraband.

1797 (5) (a) If a prosecuting attorney receives a written request from an agency seeking to  
1798 release or dispose of property or contraband, the prosecuting attorney shall:

1799 (i) provide a notice of receipt to the agency within 15 days after the day on which the  
1800 prosecuting attorney receives the written request; and

1801 (ii) send a written notification to the agency of the prosecuting attorney's decision to  
1802 deny or grant an agency's written request within 60 days after the day on which the prosecuting  
1803 attorney receives the agency's written request.

1804 (b) If an agency does not receive a notice of receipt under Subsection (5)(a)(i) or a  
1805 written notification under Subsection (5)(a)(ii), the agency may send the written request to the  
1806 district attorney, county attorney, attorney general, or other prosecutor who directly oversees  
1807 and supervises the prosecuting attorney.

1808 (6) If a prosecuting attorney denies an agency's written request to release or dispose of  
1809 property or contraband under this section, the agency shall retain the property or contraband in  
1810 accordance with Section [77-11a-301](#).

1811 (7) The requirements of this section do not apply:

1812 (a) when the release or disposal of property or contraband is in compliance with a  
1813 memorandum of understanding between the agency and the prosecuting attorney; or

1814 (b) to any property or contraband that is biological evidence of a violent felony offense.  
1815 Section 32. Section **77-11a-304** is enacted to read:

1816 **77-11a-304. Retention of property or contraband as an exhibit.**

1817 (1) If seized property or contraband is admitted as an exhibit for a court proceeding, the  
1818 clerk of the court shall:

1819 (a) retain the property or contraband; or

1820 (b) return the property or contraband to the custody of the agency.

1821 (2) Rule 4-206 of the Utah Code of Judicial Administration applies to property or  
1822 contraband that is admitted as an exhibit in a court proceeding.

1823 Section 33. Section **77-11a-401**, which is renumbered from Section 53-20-102 is

1824 renumbered and amended to read:

1825 **Part 4. Preservation of Biological Evidence for Violent Felony Offenses**

1826 ~~[53-20-102]~~. 77-11a-401. Preservation of biological evidence -- Procedures  
1827 **-- Inventory request.**

1828 (1) Except as provided in Section ~~[53-20-103]~~ 77-11a-402, an evidence collecting or  
1829 retaining entity shall preserve biological evidence~~[:]~~ of a violent felony offense in accordance  
1830 with this part.

1831 (2) An evidence collecting or retaining entity shall preserve biological evidence of a  
1832 violent felony offense:

1833 (a) for the longer of:

1834 (i) the length of the statute of limitations for the violent felony offense if:

1835 (A) no charges are filed for the violent felony offense; or

1836 (B) the violent felony offense remains unsolved;

1837 (ii) the length of time that the individual convicted of the violent felony offense or any  
1838 lesser included violent offense remains in custody; or

1839 (iii) the length of time that a co-defendant remains in custody;

1840 (b) in an amount and manner sufficient to:

1841 (i) develop a DNA profile; and

1842 (ii) if practicable, allow for independent testing of the biological evidence by a  
1843 defendant; and

1844 (c) subject to a continuous chain of custody.

1845 ~~[(2)]~~ (3) (a) Upon request by a defendant under Title 63G, Chapter 2, Government  
1846 Records Access and Management Act, the evidence collecting or retaining entity shall prepare  
1847 an inventory of the biological evidence preserved in connection with the defendant's criminal  
1848 case.

1849 (b) If the evidence collecting or retaining entity cannot locate biological evidence  
1850 requested under Subsection ~~[(2)(a)]~~ (3)(a), the custodian for the entity shall provide a sworn  
1851 affidavit to the defendant that:

1852 (i) describes the efforts taken to locate the biological evidence; and

1853 (ii) affirms that the biological evidence could not be located.

1854 ~~[(3)]~~ (4) The evidence collecting or retaining entity may dispose of biological evidence

1855 before the day on which the period described in Subsection ~~[(1)(a)]~~ (2)(a) expires if:

1856 (a) no other provision of federal or state law requires the evidence collecting or

1857 retaining entity to preserve the biological evidence;

1858 (b) the evidence collecting or retaining entity sends notice in accordance with

1859 Subsection ~~[(4)]~~ (5); and

1860 (c) an individual notified under Subsection ~~[(4)(a)]~~ (5)(a) does not within 180 days

1861 after the day on which the evidence collecting or retaining entity receives proof of delivery

1862 under Subsection ~~[(4)]~~ (5):

1863 (i) file a motion for testing of the biological evidence under Section [78B-9-301](#); or

1864 (ii) submit a written request under Subsection ~~[(4)(b)(ii)]~~ (5)(b)(ii).

1865 ~~[(4)]~~ (5) If the evidence collecting or retaining entity intends to dispose of the

1866 biological evidence before the day on which the period described in Subsection ~~[(1)(a)]~~ (2)(a)

1867 expires, the evidence collecting or retaining entity shall send a notice of intent to dispose of the

1868 biological evidence that:

1869 (a) is sent by certified mail, return receipt requested, or a delivery service that provides

1870 proof of delivery, to:

1871 (i) an individual who remains in custody based on a criminal conviction related to the

1872 biological evidence;

1873 (ii) the private attorney or public defender of record for each individual described in

1874 Subsection ~~[(4)(a)(i)]~~ (5)(a)(i);

1875 (iii) if applicable, the prosecuting agency responsible for the prosecution of each

1876 individual described in Subsection ~~[(4)(a)(i)]~~ (5)(a)(i); and

1877 (iv) the Utah attorney general; and

1878 (b) explains that the party receiving the notice may:

1879 (i) file a motion for testing of biological evidence under Section [78B-9-301](#); or

1880 (ii) submit a written request that the evidence collecting or retaining entity retain the

1881 biological evidence.

1882 ~~[(5)]~~ (6) (a) Subject to Subsections ~~[(5)(b) and (c)]~~ (6)(b) and (c), if the evidence

1883 collecting or retaining entity receives a written request to retain the biological evidence under

1884 Subsection ~~[(4)(b)(ii)]~~ (5)(b)(ii), the evidence collecting or retaining entity shall retain the

1885 biological evidence while the defendant remains in custody.

1886 (b) Subject to Subsection ~~[(5)(c)]~~ (6)(c), the evidence collecting or retaining entity is  
1887 not required to preserve physical evidence that may contain biological evidence if the physical  
1888 evidence's size, bulk, or physical character renders retention impracticable.

1889 (c) If the evidence collecting or retaining entity determines that retention is  
1890 impracticable, before returning or disposing of the physical evidence, the evidence collecting or  
1891 retaining entity shall:

1892 (i) remove the portions of the physical evidence likely to contain biological evidence  
1893 related to the violent felony offense; and

1894 (ii) preserve the removed biological evidence in a quantity sufficient to permit future  
1895 DNA testing.

1896 ~~[(6)]~~ (7) To comply with the preservation requirements described in this section, a law  
1897 enforcement agency or a court may:

1898 (a) retain the biological evidence; or

1899 (b) if a continuous chain of custody can be maintained, return the biological evidence  
1900 to the custody of the other law enforcement agency that originally provided the biological  
1901 evidence to the law enforcement agency.

1902 Section 34. Section ~~77-11a-402~~, which is renumbered from Section 53-20-103 is  
1903 renumbered and amended to read:

1904 ~~[53-20-103]~~. 77-11a-402. Exceptions to preservation of biological  
1905 evidence.

1906 (1) As used in this section, "offense concerning driving under the influence" means:

1907 (a) Section [41-6a-502](#);

1908 (b) Section [41-6a-502.5](#);

1909 (c) Section [41-6a-517](#);

1910 (d) Section [41-6a-530](#);

1911 (e) Section [76-5-102.1](#);

1912 (f) Section [76-5-207](#); and

1913 (g) a local ordinance similar to the offenses described in this Subsection (1).

1914 (2) Section ~~[53-20-102]~~ [77-11a-401](#) does not apply to biological evidence obtained  
1915 during an investigation or prosecution for an offense concerning driving under the influence  
1916 solely for toxicology purposes.

1917 Section 35. Section **77-11a-403**, which is renumbered from Section 53-20-104 is  
1918 renumbered and amended to read:

1919 ~~[53-20-104]~~. **77-11a-403. Remedies for failure to preserve biological**  
1920 **evidence.**

1921 (1) (a) Except as provided in Subsections (1)(b) and (2), if a court finds that biological  
1922 evidence that reasonably could have been found to be exculpatory in a defendant's criminal  
1923 case was not preserved in accordance with this chapter, the court may impose sanctions and  
1924 remedies at the court's discretion, including:

- 1925 (i) the grant of a new trial;
- 1926 (ii) an instruction to the jury that evidence was not preserved as required by law;
- 1927 (iii) the reduction of the sentence;
- 1928 (iv) the dismissal of the criminal charge;
- 1929 (v) the vacation of the conviction; or
- 1930 (vi) the entry of a finding that because the evidence was not preserved in accordance  
1931 with this chapter, a presumption exists that the evidence would have been exculpatory to the  
1932 defendant.

1933 (b) The provisions in Subsection (1)(a) apply only if:

- 1934 (i) a defendant's appeal has not concluded;
- 1935 (ii) a defendant's time for appeal has not expired; or
- 1936 (iii) a defendant has received a new trial in accordance with Subsection (2)(b).

1937 (2) (a) A defendant shall seek relief under Title 78B, Chapter 9, Postconviction  
1938 Remedies Act, if:

- 1939 (i) the defendant alleges that the biological evidence that is the basis for the defendant's  
1940 claim was not preserved in accordance with this chapter; and
- 1941 (ii) (A) the defendant's appeal has concluded; or
- 1942 (B) the time for the defendant's appeal has expired.

1943 (b) If a defendant obtains relief under Title 78B, Chapter 9, Postconviction Remedies  
1944 Act, the provisions in Subsection (1) apply to the defendant's new trial.

1945 Section 36. Section **77-11a-501**, which is renumbered from Section 24-2-107 is  
1946 renumbered and amended to read:

1947 **Part 5. Release of Property to Claimant**

1948            ~~[24-2-107]~~.    77-11a-501. Release of seized property to claimant -- Generally.  
1949            ~~[(1)(a) Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation, an]~~  
1950            (1) (a) An agency with custody of seized property, or the prosecuting attorney, may  
1951 release the property to a claimant if the agency or the prosecuting attorney:  
1952            (i) determines that ~~[retention of the property is unnecessary]~~ the agency does not need  
1953 to retain or preserve the property as evidence; or  
1954            (ii) seeks to return the property to the claimant because the agency or prosecuting  
1955 attorney determines that the claimant is an innocent owner or an interest holder.  
1956            (b) An agency with custody of seized property, or the prosecuting attorney, may not  
1957 release property under this Subsection (1) if the property is subject to retention or preservation  
1958 under:  
1959            (i) Part 3, Retention of Property and Contraband as Evidence; or  
1960            (ii) Part 4, Preservation of Biological Evidence for Violent Felony Offenses.  
1961            (c) If an agency is not required, or is no longer required, to retain or preserve property  
1962 under this chapter and the agency seeks to release or dispose of the property, the agency shall  
1963 exercise due diligence in attempting to notify the claimant of the property to advise the  
1964 claimant that the property is to be returned.  
1965            ~~[(b)]~~ (2) An agency with custody of the seized property, or the prosecuting attorney,  
1966 shall release the property to a claimant if:  
1967            ~~[(i)]~~ (a) the claimant posts a surety bond or cash with the court in accordance with  
1968 ~~[Subsection (2)]~~ Section 77-11a-502;  
1969            ~~[(ii)]~~ (b) the court orders the release of property to the claimant for hardship purposes  
1970 under [Subsection (3)] Section 77-11a-503;  
1971            ~~[(iii)]~~ (c) a claimant establishes that the claimant is an innocent owner or an interest  
1972 holder under [Section 24-2-108] Section 77-11a-504; or  
1973            ~~[(iv)]~~ (d) the court orders property retained as evidence to be released to [a rightful  
1974 owner] the claimant under [Section 24-3-104] Section 77-11a-505.  
1975            (3) If a peace officer for the Division of Wildlife Resources seizes a vehicle, the  
1976 Division of Wildlife Resources shall release the vehicle to a claimant in accordance with  
1977 Section 23-20-1.  
1978            (4) (a) For a computer determined to be contraband, a court may order the reasonable



1979 extraction and return of specifically described personal digital data to the owner of the  
1980 computer.

1981 (b) The agency shall determine a reasonable cost to extract the data.

1982 (c) At the time of the request to extract the data, the owner of the computer shall pay  
1983 the agency the cost to extract the data.

1984 (5) (a) Before an agency may release seized property to a person claiming ownership of  
1985 the property, the person shall establish that the person:

1986 (i) is the owner of the property; and  
1987 (ii) may lawfully possess the property.

1988 (b) The person shall establish ownership under Subsection (5)(a) by providing to the  
1989 agency:

1990 (i) identifying proof or documentation of ownership of the property; or  
1991 (ii) a notarized statement if proof or documentation is not available.

1992 (c) When seized property is returned to the owner, the owner shall sign a receipt listing  
1993 in detail the property that is returned.

1994 (d) The agency shall:

1995 (i) retain a copy of the receipt; and  
1996 (ii) provide a copy of the receipt to the owner.

1997 ~~[(2) (a) Except as provided in Subsection (2)(b), a claimant may obtain release of~~  
1998 ~~seized property by posting a surety bond or cash with the court that is in an amount equal to the~~  
1999 ~~current fair market value of the property as determined by the court or a stipulation by the~~  
2000 ~~parties.]~~

2001 ~~[(b) A court may refuse to order the release under Subsection (2)(a) of:]~~

2002 ~~[(i) the property if:]~~

2003 ~~[(A) the bond tendered is inadequate;]~~

2004 ~~[(B) the property is retained as evidence or is subject to retention under Title 53;~~  
2005 ~~Chapter 20, Forensic Biological Evidence Preservation; or]~~

2006 ~~[(C) the property is particularly altered or designed for use in the commission of the~~  
2007 ~~offense subjecting the property to forfeiture; or]~~

2008 ~~[(ii) contraband.]~~

2009 ~~[(c) If a surety bond or cash is posted and the court later determines that the property is~~

2010 forfeited, the court shall order the forfeiture of the surety bond or cash in lieu of the property.]

2011 [~~(3) A claimant is entitled to the immediate release of seized property for which the~~  
2012 ~~agency has filed a notice of intent to forfeit under Section 24-4-103 if:]~~

2013 [~~(a) the claimant had a possessory interest in the property at the time of seizure;]~~

2014 [~~(b) continued possession by the agency pending a forfeiture proceeding will cause~~  
2015 ~~substantial hardship to the claimant, including:]~~

2016 [~~(i) preventing the functioning of a legitimate business;]~~

2017 [~~(ii) preventing any individual from working;]~~

2018 [~~(iii) preventing any child from attending elementary or secondary school;]~~

2019 [~~(iv) preventing or hindering an individual from receiving necessary medical care;]~~

2020 [~~(v) preventing the care of a dependent child or adult who is elderly or disabled;]~~

2021 [~~(vi) leaving an individual homeless; or]~~

2022 [~~(vii) any other condition that the court determines causes a substantial hardship;]~~

2023 [~~(c) the hardship from the continued possession of the property by the agency~~  
2024 ~~outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred~~  
2025 ~~if the property is returned to the claimant during the pendency of the proceeding; and]~~

2026 [~~(d) the determination of substantial hardship under this Subsection (3) is based upon~~  
2027 ~~the property's use before the seizure.]~~

2028 [~~(4) A claimant may file a motion or petition for hardship release under Subsection~~  
2029 ~~(3):]~~

2030 [~~(a) in the court in which forfeiture proceedings have commenced; or]~~

2031 [~~(b) in a district court where there is venue if a forfeiture proceeding has not yet~~  
2032 ~~commenced.]~~

2033 [~~(5) The motion or petition for hardship release shall be served upon the agency with~~  
2034 ~~custody of the property within five days after the day on which the motion or petition is filed.]~~

2035 [~~(6) The court shall:]~~

2036 [~~(a) schedule a hearing on the motion or petition within 14 days after the day on which~~  
2037 ~~the motion or petition is filed; and]~~

2038 [~~(b) render a decision on a motion or petition for hardship filed under this section no~~  
2039 ~~later than 20 days after the day of the hearing, unless this period is extended by the agreement~~  
2040 ~~of both parties or by the court for good cause shown.]~~

2041 ~~[(7) (a) If the claimant demonstrates substantial hardship under Subsection (3), the~~  
2042 ~~court shall order the property immediately released to the claimant pending completion of any~~  
2043 ~~forfeiture proceeding.]~~

2044 ~~[(b) The court may place conditions on release of the property as the court finds~~  
2045 ~~necessary and appropriate to preserve the availability of the property or the property's~~  
2046 ~~equivalent for forfeiture.]~~

2047 ~~[(8) The hardship release under this section does not apply to:]~~

2048 ~~[(a) contraband; or]~~

2049 ~~[(b) property that is:]~~

2050 ~~[(i) subject to retention under Title 53, Chapter 20, Forensic Biological Evidence~~  
2051 ~~Preservation; or]~~

2052 ~~[(ii) likely to be used to commit additional offenses if returned to the claimant.]~~

2053 Section 37. Section **77-11a-502** is enacted to read:

2054 **77-11a-502. Release of seized property to claimant by surety bond or cash.**

2055 (1) Except as provided in Subsection (2), a claimant may obtain release of seized  
2056 property by posting a surety bond or cash with the court that is in an amount equal to the  
2057 current fair market value of the property as determined by the court or a stipulation by the  
2058 parties.

2059 (2) A court may refuse to order the release of property under Subsection (1) if:

2060 (a) the bond tendered for the property is inadequate;

2061 (b) the property is subject to retention or preservation under:

2062 (i) Part 3, Retention of Property and Contraband as Evidence; or

2063 (ii) Part 4, Preservation of Biological Evidence for Violent Felony Offenses;

2064 (c) the property is particularly altered or designed for use in the commission of the

2065 offense subjecting the property to forfeiture under Section [77-11b-102](#); or

2066 (d) the property is contraband.

2067 (3) If a surety bond or cash is posted and the court later determines that the property is  
2068 forfeited, the court shall order the forfeiture of the surety bond or cash in lieu of the property.

2069 Section 38. Section **77-11a-503** is enacted to read:

2070 **77-11a-503. Release of seized property subject to forfeiture to claimant for**  
2071 **hardship.**

2072 (1) A claimant is entitled to the immediate release of seized property for which the  
2073 agency has filed a notice of intent to forfeit under Section [77-11b-201](#) if:

2074 (a) the claimant had a possessory interest in the property at the time of seizure;

2075 (b) continued possession by the agency pending a forfeiture proceeding will cause  
2076 substantial hardship to the claimant, including:

2077 (i) preventing the functioning of a legitimate business;

2078 (ii) preventing any individual from working;

2079 (iii) preventing any child from attending elementary or secondary school;

2080 (iv) preventing or hindering an individual from receiving necessary medical care;

2081 (v) preventing the care of a dependent child or adult who is elderly or disabled;

2082 (vi) leaving an individual homeless; or

2083 (vii) any other condition that the court determines causes a substantial hardship;

2084 (c) the hardship from the continued possession of the property by the agency outweighs  
2085 the risk that the property will be destroyed, damaged, lost, concealed, or transferred if the  
2086 property is returned to the claimant during the pendency of the proceeding; and

2087 (d) the determination of substantial hardship under this Subsection (1) is based upon  
2088 the property's use before the seizure.

2089 (2) A claimant may file a motion or petition for hardship release under this section:

2090 (a) in the court in which forfeiture proceedings have commenced; or

2091 (b) in a district court where there is venue under Section [77-11a-102](#) if a forfeiture  
2092 proceeding has not yet commenced.

2093 (3) The motion or petition for hardship release shall be served upon the agency with  
2094 custody of the property within five days after the day on which the motion or petition is filed.

2095 (4) The court shall:

2096 (a) schedule a hearing on the motion or petition within 14 days after the day on which  
2097 the motion or petition is filed; and

2098 (b) render a decision on a motion or petition for hardship filed under this section no  
2099 later than 20 days after the day of the hearing, unless this period is extended by the agreement  
2100 of both parties or by the court for good cause shown.

2101 (5) If the claimant demonstrates substantial hardship under Subsection (1), the court  
2102 shall order the property immediately released to the claimant pending completion of any

2103 forfeiture proceeding.

2104 (6) The court may place conditions on release of the property as the court finds  
2105 necessary and appropriate to preserve the availability of the property or the property's  
2106 equivalent for forfeiture.

2107 (7) The hardship release under this section does not apply to:

2108 (a) contraband;

2109 (b) property that is subject to the retention or preservation requirements under:

2110 (i) Part 3, Retention of Property and Contraband as Evidence; or

2111 (ii) Part 4, Preservation of Biological Evidence for Violent Felony Offenses; or

2112 (c) property that is likely to be used to commit additional offenses if returned to the  
2113 claimant.

2114 Section 39. Section **77-11a-504**, which is renumbered from Section 24-2-108 is  
2115 renumbered and amended to read:

2116 **[24-2-108]. 77-11a-504. Release of seized property to innocent owner or interest**  
2117 **holder.**

2118 (1) (a) [~~Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation, a~~]  
2119 Except for property required to be retained or preserved under this chapter, a claimant alleged  
2120 to be an innocent owner or an interest holder may recover possession of seized property by:

2121 (i) submitting a written request with the seizing agency before the later of:

2122 (A) the commencement of a civil asset forfeiture proceeding under Section

2123 77-11b-301; or

2124 (B) 30 days after the day on which the property was seized; and

2125 (ii) providing the seizing agency with:

2126 (A) evidence that establishes proof of ownership; and

2127 (B) a brief description of the date, time, and place that the claimant mislaid or  
2128 relinquished possession of the seized property, or any evidence that the claimant is an innocent  
2129 owner or an interest holder.

2130 (b) If a seizing agency receives a claim under Subsection (1)(a), the seizing agency  
2131 shall issue a written response to the claimant within 30 days after the day on which the seizing  
2132 agency receives the claim.

2133 (c) A response under Subsection (1)(b) from the seizing agency shall indicate whether

2134 the claim has been granted, denied on the merits, or denied for failure to provide the  
2135 information required by Subsection (1)(a)(ii).

2136 (d) (i) If a seizing agency denies a claim for failure to provide the information required  
2137 by Subsection (1)(a)(ii), the claimant has 15 days after the day on which the claim is denied to  
2138 submit additional information.

2139 (ii) If a prosecuting attorney has not filed a civil action seeking to forfeit the property  
2140 under Section 77-11b-301, and a seizing agency has denied a claim for failure to provide the  
2141 information required by Subsection (1)(a)(ii), the prosecuting attorney may not commence a  
2142 civil action until:

2143 (A) the claimant has submitted information under Subsection (1)(d)(i); or

2144 (B) the deadline for the claimant to submit information under Subsection (1)(d)(i) has  
2145 passed.

2146 (e) If a seizing agency fails to issue a written response within 30 days after the day on  
2147 which the seizing agency receives the response, the seizing agency shall return the property.

2148 (2) If a claim under Subsection (1)(a) is granted, or the property is returned because the  
2149 seizing agency fails to respond within 30 days, a claimant may not receive any expenses, costs,  
2150 or attorney fees for the returned property.

2151 (3) A claimant may collect reasonable attorney fees and court costs if:

2152 (a) a claimant filed a claim under Subsection (1)(a);

2153 (b) the seizing agency denies the claim on the merits; and

2154 (c) a court determines that the claimant is an innocent owner or an interest holder in a  
2155 civil asset forfeiture proceeding.

2156 (4) If a court grants reasonable attorney fees and court costs, the amount of the attorney  
2157 fees begins to accrue from the day on which the seizing agency denied the claim.

2158 (5) If the court grants reasonable attorney fees and court costs under Subsection (3), the  
2159 attorney fees and court costs are not subject to the 50% cap under Subsection ~~[24-4-110(2)]~~

2160 77-11b-305(2).

2161 (6) A communication between parties regarding a claim submitted under Subsection  
2162 (3) and any evidence provided to the parties in connection with a claim is subject to the Utah  
2163 Rules of Evidence, Rules 408 and 410.

2164 ~~[(7) An agency and the prosecuting attorney may not forfeit the seized property of an~~

2165 ~~innocent owner or an interest holder.]~~

2166 Section 40. Section ~~77-11a-505~~, which is renumbered from Section 24-3-104 is  
2167 renumbered and amended to read:

2168 ~~[24-3-104].~~ 77-11a-505. Release of seized property to claimant when seized  
2169 property is retained as evidence.

2170 (1) (a) A claimant may file a petition with the court for the return of the property that is  
2171 being retained as evidence in accordance with Part 3, Retention of Property and Contraband as  
2172 Evidence.

2173 (b) The claimant may file the petition in:

2174 (i) the court in which criminal proceedings have commenced regarding the offense for  
2175 which the property is being retained as evidence; or

2176 (ii) the district court with venue under Section ~~[24-1-103]~~ 77-11a-102 if there are no  
2177 pending criminal proceedings.

2178 (c) A claimant shall serve a copy of the petition on the prosecuting attorney and the  
2179 agency with custody of the property.

2180 (2) (a) The court shall provide an opportunity for an expedited hearing.

2181 (b) After the opportunity for an expedited hearing, the court may order that the property  
2182 is:

2183 (i) returned to the ~~[rightful owner]~~ claimant if the claimant is the owner as determined  
2184 by the court;

2185 (ii) if the offense subjecting the property to seizure results in a conviction, applied  
2186 directly or by proceeds of the sale of the property toward restitution, fines, or fees owed by the  
2187 ~~[rightful owner]~~ claimant in an amount set by the court;

2188 (iii) converted to a public interest use;

2189 (iv) held for further legal action;

2190 (v) sold at public auction and the proceeds of the sale applied to a public interest use;

2191 or

2192 (vi) destroyed.

2193 (3) Before the court can order property be returned to a claimant, the claimant shall  
2194 establish, by clear and convincing evidence, that the claimant:

2195 (a) is the ~~[rightful]~~ owner; and

2196 (b) may lawfully possess the property.

2197 (4) If the court orders the property to be returned to the claimant, the agency with  
2198 custody of the property shall return the property to the claimant as expeditiously as possible.

2199 Section 41. Section ~~77-11a-601~~, which is renumbered from Section 24-3-101.5 is  
2200 renumbered and amended to read:

2201 **Part 6. Disposal of Seized Property and Contraband**

2202 ~~[24-3-101.5]~~. **77-11a-601. Applicability of this part.**

2203 The provisions of this ~~[chapter]~~ part do not apply to property or contraband:

2204 (1) ~~[that is subject to the retention requirements under Title 53, Chapter 20, Forensic~~  
2205 ~~Biological Evidence Preservation]~~ until the property or contraband is no longer subject to:

2206 (a) the retention requirements of Part 3, Retention of Property and Contraband as  
2207 Evidence; or

2208 (b) the preservation requirements of Part 4, Preservation of Biological Evidence for  
2209 Violent Felony Offenses; or

2210 (2) for which an agency has filed a notice of intent to seek forfeiture under ~~[Section~~  
2211 ~~24-4-103]~~ Chapter 11b, Forfeiture of Seized Property.

2212 Section 42. Section ~~77-11a-602~~, which is renumbered from Section 24-3-103 is  
2213 renumbered and amended to read:

2214 ~~[24-3-103]~~. **77-11a-602. Disposition of seized property and contraband --**  
2215 **Return of seized property.**

2216 (1) If a prosecuting attorney determines that seized property no longer needs to be  
2217 retained ~~[for court proceedings]~~ as evidence under Section ~~77-11a-301~~, the prosecuting  
2218 attorney may:

2219 (a) petition the court to apply the property that is money towards restitution, fines, fees,  
2220 or monetary judgments owed by the owner of the property;

2221 (b) petition the court for an order transferring ownership of any weapons to the agency  
2222 with custody for the agency's use and disposal in accordance with Section ~~[24-3-103.5]~~  
2223 ~~77-11a-603~~, if the owner:

2224 (i) is the individual who committed the offense for which the weapon was seized; or

2225 (ii) may not lawfully possess the weapon; or

2226 (c) notify the agency with custody of the property or contraband that:



- 2227 (i) the property may be returned to the [rightful] owner in accordance with Section  
2228 77-11a-501 if the [rightful] owner may lawfully possess the property; or
- 2229 (ii) the contraband may be disposed of or destroyed.
- 2230 ~~[(2) The agency shall exercise due diligence in attempting to notify the rightful owner~~  
2231 ~~of the property to advise the owner that the property is to be returned.]~~
- 2232 ~~[(3) (a) For a computer determined to be contraband, a court may order the reasonable~~  
2233 ~~extraction and return of specifically described personal digital data to the rightful owner.]~~
- 2234 ~~[(b) The law enforcement agency shall determine a reasonable cost to extract the data.]~~
- 2235 ~~[(c) At the time of the request to extract the data, the owner of the computer shall pay~~  
2236 ~~the agency the cost to extract the data.]~~
- 2237 ~~[(4) (a) Before an agency may release seized property to a person claiming ownership~~  
2238 ~~of the property, the person shall establish in accordance with Subsection (4)(b) that the~~  
2239 ~~person:]~~
- 2240 ~~[(i) is the rightful owner; and]~~
- 2241 ~~[(ii) may lawfully possess the property.]~~
- 2242 ~~[(b) The person shall establish ownership under Subsection (4)(a) by providing to the~~  
2243 ~~agency:]~~
- 2244 ~~[(i) identifying proof or documentation of ownership of the property; or]~~
- 2245 ~~[(ii) a notarized statement if proof or documentation is not available.]~~
- 2246 ~~[(5) (a) When seized property is returned to the owner, the owner shall sign a receipt~~  
2247 ~~listing in detail the property that is returned.]~~
- 2248 ~~[(b) The agency shall:]~~
- 2249 ~~[(i) retain a copy of the receipt; and]~~
- 2250 ~~[(ii) provide a copy of the receipt to the owner.]~~
- 2251 ~~[(6) (2) (a) Except as provided in Subsection [(6)(b)] (2)(b), if the agency is unable to~~  
2252 ~~locate the [rightful] owner of the property or the [rightful] owner is not entitled to lawfully~~  
2253 ~~possess the property, the agency may:~~
- 2254 (i) apply the property to a public interest use;
- 2255 (ii) sell the property at public auction and apply the proceeds of the sale to a public  
2256 interest use; ~~[or]~~
- 2257 (iii) destroy the property if the property is unfit for a public interest use or for sale.

2258 (b) If the property described in Subsection [(6)(a)] (2)(a) is a firearm, the agency shall  
2259 dispose of the firearm in accordance with Section [~~24-3-103.5~~] [77-11a-603](#).

2260 [(7)] (3) Before applying the property or the proceeds from the sale of the property to a  
2261 public interest use, the agency shall obtain from the legislative body of the agency's  
2262 jurisdiction:

2263 (a) permission to apply the property or the proceeds to public interest use; and

2264 (b) the designation and approval of the public interest use of the property or the  
2265 proceeds.

2266 [(8)] (4) If a peace officer seizes property that at the time of seizure is held by a pawn  
2267 or secondhand business in the course of the pawn or secondhand business's business, the  
2268 provisions of Section [13-32a-116](#) shall apply to the disposition of the property.

2269 Section 43. Section **77-11a-603**, which is renumbered from Section ~~24-3-103.5~~ is  
2270 renumbered and amended to read:

2271 [~~24-3-103.5~~]. **77-11a-603. Disposition of firearms no longer needed as**  
2272 **evidence.**

2273 (1) As used in this section:

2274 (a) "Confiscated or unclaimed firearm" means a firearm that is subject to disposal by  
2275 an agency under Section [~~24-3-103~~] [77-11a-602](#) or [53-5c-202](#).

2276 (b) "Department" means the Department of Public Safety created in Section [53-1-103](#).

2277 (c) "Federally licensed firearms dealer" means a person:

2278 (i) licensed as a dealer under 18 U.S.C. Sec. 923; and

2279 (ii) engaged in the business of selling firearms.

2280 (d) "State-approved dealer" means the federally licensed firearms dealer that contracts  
2281 with the department under Subsection (4).

2282 (2) An agency shall dispose of a confiscated or unclaimed firearm by:

2283 (a) selling or destroying the confiscated or unclaimed firearm in accordance with  
2284 Subsection (3);

2285 (b) giving the confiscated or unclaimed firearm to the state-approved dealer to sell or  
2286 destroy in accordance with Subsection (4) and the agreement between the state-approved dealer  
2287 and the department; or

2288 (c) after the agency obtains approval from the legislative body of the agency's

2289 jurisdiction, transferring the confiscated or unclaimed firearm to the Bureau of Forensic  
2290 Services, created in Section [53-10-401](#), or another public forensic laboratory for testing.

2291 (3) (a) An agency that elects to dispose of a confiscated or unclaimed firearm under  
2292 Subsection (2)(a) shall:

2293 (i) sell the confiscated or unclaimed firearm to a federally licensed firearms dealer and  
2294 apply the proceeds from the sale to a public interest use; or

2295 (ii) destroy the firearm, if the agency determines that:

2296 (A) the condition of a confiscated or unclaimed firearm makes the firearm unfit for  
2297 sale; or

2298 (B) the confiscated or unclaimed firearm is associated with a notorious crime.

2299 (b) Before an agency applies the proceeds of a sale of a confiscated or unclaimed  
2300 firearm to a public interest use, the agency shall obtain from the legislative body of the agency's  
2301 jurisdiction:

2302 (i) permission to apply the proceeds of the sale to a public interest use; and

2303 (ii) the designation and approval of the public interest use to which the agency applies  
2304 the proceeds.

2305 (4) (a) (i) The department shall, in accordance with Title 63G, Chapter 6a, Utah  
2306 Procurement Code, contract with a federally licensed firearms dealer to sell or destroy all  
2307 confiscated or unclaimed firearms in the state.

2308 (ii) The term of an agreement executed in accordance with this Subsection (4) may not  
2309 exceed five years.

2310 (iii) Nothing in this Subsection (4) prevents the department from contracting with the  
2311 same federally licensed firearms dealer more than once.

2312 (b) An agreement executed in accordance with Subsection (4)(a) shall:

2313 (i) address the amount of money that the federally licensed firearms dealer is entitled to  
2314 retain from the sale of each confiscated or unclaimed firearm as compensation for the federally  
2315 licensed firearms dealer's performance under the agreement;

2316 (ii) require the federally licensed firearms dealer to donate, on behalf of the state, all  
2317 proceeds from the sale of a confiscated or unclaimed firearm, except the amount described in  
2318 Subsection (4)(b)(i), to an organization that:

2319 (A) is exempt from taxation under Section 501(c)(3), Internal Revenue Code;

2320 (B) complies with any applicable licensing or registration requirements in the state;

2321 (C) primarily helps the families of law enforcement officers in the state who die in the  
2322 line of duty;

2323 (D) gives financial assistance to the families of law enforcement officers in the state  
2324 who die in the line of duty; and

2325 (E) provides other assistance to children of active law enforcement officers, including  
2326 scholarships;

2327 (iii) state that if the federally licensed firearms dealer determines that the condition of a  
2328 confiscated or unclaimed firearm makes the firearm unfit for sale, the federally licensed  
2329 firearms dealer shall destroy the firearm; and

2330 (iv) provide a procedure by which the department can ensure that the federally licensed  
2331 firearms dealer complies with the provisions of the agreement and applicable law.

2332 Section 44. Section **77-11b-101** is enacted to read:

2333 **CHAPTER 11b. FORFEITURE OF SEIZED PROPERTY**

2334 **Part 1. General Provisions**

2335 **77-11b-101. Definitions.**

2336 As used in this chapter:

2337 (1) (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not  
2338 guilty.

2339 (b) "Acquitted" does not include:

2340 (i) a verdict of guilty on a lesser or reduced charge;

2341 (ii) a plea of guilty to a lesser or reduced charge; or

2342 (iii) dismissal of a charge as a result of a negotiated plea agreement.

2343 (2) "Agency" means the same as that term is defined in Section [77-11a-101](#).

2344 (3) "Claimant" means the same as that term is defined in Section [77-11a-101](#).

2345 (4) "Commission" means the State Commission on Criminal and Juvenile Justice  
2346 created in Section [63M-7-201](#).

2347 (5) "Complaint" means a civil or criminal complaint seeking the forfeiture of any  
2348 property under this chapter.

2349 (6) "Forfeit" means to divest a claimant of an ownership interest in property seized  
2350 under this title.

- 2351 (7) "Innocent owner" means the same as that term is defined in Section 77-11a-101.
- 2352 (8) "Interest holder" means the same as that term is defined in Section 77-11a-101.
- 2353 (9) "Known address" means:
- 2354 (a) any address provided by a claimant to the peace officer or agency at the time the
- 2355 property is seized; or
- 2356 (b) the claimant's most recent address on record with a governmental entity if no
- 2357 address was provided at the time of the seizure.
- 2358 (10) "Legal costs" means the costs and expenses incurred by a party in a forfeiture
- 2359 action.
- 2360 (11) "Legislative body" means the same as that term is defined in Section 77-11a-101.
- 2361 (12) "Peace officer" means the same as that term is defined in Section 77-11a-101.
- 2362 (13) "Proceeds" means the same as that term is defined in Section 77-11a-101.
- 2363 (14) "Program" means the State Asset Forfeiture Grant Program created in Section
- 2364 77-11b-403.
- 2365 (15) "Property" means the same as that term is defined in Section 77-11a-101.
- 2366 (16) "Prosecuting attorney" means the same as that term is defined in Section
- 2367 77-11a-101.
- 2368 (17) "Seized property" means the same as that term is defined in Section 77-11a-101.
- 2369 Section 45. Section **77-11b-102**, which is renumbered from Section 24-4-102 is
- 2370 renumbered and amended to read:
- 2371 **~~[24-4-102].~~ 77-11b-102. Property subject to forfeiture.**
- 2372 (1) (a) Except as provided in Subsection (2), (3), or (4), an agency may seek to forfeit:
- 2373 ~~[(a)]~~ (i) seized property that was used to facilitate the commission of an offense that is
- 2374 a violation of federal or state law; ~~[and]~~ or
- 2375 ~~[(b)]~~ (ii) seized proceeds.
- 2376 (b) An agency, or the prosecuting attorney, may not forfeit the seized property of an
- 2377 innocent owner or an interest holder.
- 2378 (2) If seized property is used to facilitate an offense that is a violation of Section
- 2379 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, an agency may not forfeit the property if
- 2380 the forfeiture would constitute a prior restraint on the exercise of an affected party's rights
- 2381 under the First Amendment to the Constitution of the United States or Utah Constitution,

2382 Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's  
2383 rights under the First Amendment to the Constitution of the United States or Utah Constitution,  
2384 Article I, Section 15.

2385 (3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502,  
2386 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1),  
2387 Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not seek forfeiture of the  
2388 motor vehicle, unless:

2389 (a) the operator of the vehicle has previously been convicted of an offense committed  
2390 after May 12, 2009, that is:

2391 (i) a felony driving under the influence violation under Section 41-6a-502 or  
2392 Subsection 76-5-102.1(2)(a);

2393 (ii) a felony violation under Subsection 76-5-102.1(2)(b);

2394 (iii) a violation under Section 76-5-207; or

2395 (iv) operating a motor vehicle with any amount of a controlled substance in an  
2396 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,  
2397 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g); or

2398 (b) the operator of the vehicle was driving on a denied, suspended, revoked, or  
2399 disqualified license and:

2400 (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii)  
2401 was imposed because of a violation under:

2402 (A) Section 41-6a-502;

2403 (B) Section 41-6a-517;

2404 (C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

2405 (D) Section 41-6a-520;

2406 (E) operating a motor vehicle with any amount of a controlled substance in an  
2407 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,  
2408 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

2409 (F) Section 76-5-102.1;

2410 (G) Section 76-5-207; or

2411 (H) a criminal prohibition as a result of a plea bargain after having been originally  
2412 charged with violating one or more of the sections or ordinances described in Subsections

2413 (3)(b)(i)(A) through (G); or

2414 (ii) the denial, suspension, revocation, or disqualification described in [Subsections

2415 ~~(3)(b)(i)(A) through (H)~~ Subsection (3)(b)(i):

2416 (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension,  
2417 revocation, or disqualification; and

2418 (B) the original denial, suspension, revocation, or disqualification was imposed  
2419 because of a violation described in [~~Subsections (3)(b)(i)(A) through (H)~~] Subsection (3)(b)(i).

2420 (4) If a peace officer seizes property incident to an arrest solely for possession of a  
2421 controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection 58-37-8(2)(b)(i), an  
2422 agency may not seek to forfeit the property that was seized in accordance with the arrest.

2423 Section 46. Section 77-11b-103, which is renumbered from Section 24-4-106 is  
2424 renumbered and amended to read:

2425 ~~[24-4-106]~~. 77-11b-103. Trial by jury.

2426 The right to trial by jury applies to forfeiture proceedings under this chapter.

2427 Section 47. Section 77-11b-104 is enacted to read:

2428 77-11b-104. Venue.

2429 Notwithstanding Title 78B, Chapter 3, Part 3, Place of Trial -- Venue, or any other  
2430 provision of law, a person may bring an action or proceeding under this chapter in the judicial  
2431 district in which:

2432 (1) the property is seized;

2433 (2) any part of the property is found; or

2434 (3) a civil or criminal action could be maintained against a claimant for the offense  
2435 subjecting the property to forfeiture under this chapter.

2436 Section 48. Section 77-11b-105, which is renumbered from Section 24-4-119 is  
2437 renumbered and amended to read:

2438 ~~[24-4-119]~~. 77-11b-105. Training requirements.

2439 (1) As used in this section:

2440 (a) "Council" means the Utah Prosecution Council created in Section 67-5a-1.

2441 (b) "Division" means the Peace Officers Standards and Training Division created in  
2442 Section 53-6-103.

2443 (2) To participate in the program, an agency shall have at least one employee who is

2444 certified by the division as an asset forfeiture specialist through the completion of an online  
2445 asset forfeiture course by the division.

2446 (3) The division shall:

2447 (a) develop an online asset forfeiture specialist course that is available to an agency for  
2448 certification purposes;

2449 (b) certify an employee of an agency who meets the course requirements to be an asset  
2450 forfeiture specialist;

2451 (c) recertify, every 36 months, an employee who is designated as an asset forfeiture  
2452 specialist by an agency;

2453 (d) submit annually a report to the commission no later than April 30 that contains a  
2454 list of the names of the employees and agencies participating in the certification courses;

2455 (e) review and update the asset forfeiture specialist course each year to comply with  
2456 state and federal law; and

2457 (f) provide asset forfeiture training to all peace officers in basic training programs.

2458 (4) To be reimbursed for costs under Subsection [~~24-4-115(3)(b)~~] 77-11b-401(3)(b), a  
2459 prosecuting agency shall have at least one employee who is certified by the council as an asset  
2460 forfeiture specialist through the completion of an online asset forfeiture course.

2461 (5) The council shall:

2462 (a) develop an online asset forfeiture specialist course that is available to a prosecuting  
2463 agency for certification purposes;

2464 (b) certify an employee of a prosecuting agency who meets the course requirements to  
2465 be an asset forfeiture specialist;

2466 (c) submit annually a report to the commission no later than April 30 that contains a  
2467 list of the names of the employees and prosecuting agencies participating in certification  
2468 courses by the council; and

2469 (d) review and update the asset forfeiture specialist course each year to comply with  
2470 state and federal law.

2471 Section 49. Section **77-11b-201**, which is renumbered from Section 24-4-103 is  
2472 renumbered and amended to read:

2473 **Part 2. Initiating Forfeiture of Seized Property**

2474 [~~24-4-103~~]. **77-11b-201. Initiating forfeiture proceedings -- Notice of intent to**



2475 **seek forfeiture.**

2476 (1) (a) If an agency seeks to forfeit [~~property seized under this title~~] seized property, the  
2477 agency shall serve a notice of intent to seek forfeiture to any known claimant within 30 days  
2478 after the day on which the property is seized.

2479 (b) The notice of intent to seek forfeiture shall describe:

2480 (i) the date of the seizure;

2481 (ii) the property seized;

2482 (iii) the claimant's rights and obligations under this chapter and Chapter 11a, Seizure  
2483 and Retention of Property and Contraband, including the availability of hardship relief in  
2484 appropriate circumstances; and

2485 (iv) the statutory basis for the forfeiture, including the judicial proceedings by which  
2486 the property may be forfeited under this chapter.

2487 (c) The agency shall serve the notice of intent to seek forfeiture by:

2488 (i) certified mail, with a return receipt requested, to the claimant's known address; or

2489 (ii) personal service.

2490 (d) A court may void a forfeiture made without notice under Subsection (1)(a), unless  
2491 the agency demonstrates:

2492 (i) good cause for the failure to give notice to the claimant; or

2493 (ii) that the claimant had actual notice of the seizure.

2494 (2) Before an agency serves a notice of intent to forfeit seized property under  
2495 Subsection (1)(a), the agency shall conduct a search of public records applicable to the seized  
2496 property, including county records or records of the Division of Corporations and Commercial  
2497 Code, the Division of Motor Vehicles, or other state or federal licensing agencies, in order to  
2498 obtain the name and address of each interest holder of the property.

2499 (3) If an agency serves a notice of intent to forfeit seized property under Subsection  
2500 (1)(a), an individual or entity may not alienate, convey, sequester, or attach the property until a  
2501 court:

2502 (a) issues a final order to dismiss an action under this [~~title~~] chapter; or

2503 (b) orders the forfeiture of the property.

2504 (4) (a) (i) If an agency has served each claimant with a notice of intent to seek  
2505 forfeiture, the agency shall present a written request for forfeiture to the prosecuting attorney of

2506 the municipality or county where the property is seized.

2507 (ii) The agency shall provide the request under Subsection (4)(a)(i) no later than 45  
2508 days after the day on which the property is seized.

2509 (b) The written request described in Subsection (4)(a) shall:

2510 (i) describe the property that the agency is seeking to forfeit; and

2511 (ii) include a copy of all reports, supporting documents, and other evidence that is  
2512 necessary for the prosecuting attorney to determine the legal sufficiency for filing a forfeiture  
2513 action.

2514 (c) The prosecuting attorney shall:

2515 (i) review the written request described in Subsection (4)(a)(i); and

2516 (ii) within 75 days after the day on which the property is seized, decline or accept, in  
2517 writing, the agency's written request for the prosecuting attorney to initiate a proceeding to  
2518 forfeit the property.

2519 Section 50. Section ~~77-11b-202~~, which is renumbered from Section 24-4-103.3 is  
2520 renumbered and amended to read:

2521 ~~[24-4-103.3]~~. **77-11b-202. Sale of seized property subject to forfeiture.**

2522 (1) (a) [~~Subject to Subsection (2) and Title 53, Chapter 20, Forensic Biological~~  
2523 ~~Evidence Preservation~~] Except for property that is required to be retained or preserved under  
2524 Chapter 11a, Seizure and Retention of Property and Contraband, the court may order seized  
2525 property[;] for which a forfeiture proceeding is pending[;] to:

2526 (i) be sold, leased, rented, or operated to satisfy a specified interest of any claimant; or

2527 (ii) preserve the interests of any party on motion of that party.

2528 (b) The court may only enter an order under Subsection (1)(a) after:

2529 (i) written notice to any person known to have an interest in the property has been  
2530 given; and

2531 (ii) an opportunity for a hearing for any person known to have an interest in the  
2532 property has occurred.

2533 (2) (a) A court may order a sale of property under Subsection (1) when:

2534 (i) the property is liable to perish, waste, or be significantly reduced in value; or

2535 (ii) the expenses of maintaining the property are disproportionate to the property's  
2536 value.

- 2537 (b) A third party designated by the court shall:
- 2538 (i) dispose of the property by a commercially reasonable public sale; and
- 2539 (ii) distribute the proceeds in the following order of priority:
- 2540 (A) first, for the payment of reasonable expenses incurred in connection with the sale;
- 2541 (B) second, for the satisfaction of an interest, including an interest of an interest holder,
- 2542 in the order of an interest holder's priority as determined by Title 70A, Uniform Commercial
- 2543 Code; and
- 2544 (C) third, any balance of the proceeds shall be preserved in the actual or constructive
- 2545 custody of the court, in an interest-bearing account, subject to further proceedings under this
- 2546 chapter.

2547 Section 51. Section ~~77-11b-203~~, which is renumbered from Section 24-4-103.5 is

2548 renumbered and amended to read:

2549 ~~[24-4-103.5].~~ **77-11b-203. Mandatory return of seized property subject to**

2550 **forfeiture.**

2551 (1) [~~Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation~~]

2552 Except for property that is required to be retained or preserved under Chapter 11a, Seizure and

2553 Retention of Property and Contraband, an agency shall promptly return [~~property seized under~~

2554 ~~this title,~~] seized property to a claimant and the prosecuting attorney may take no further action

2555 to forfeit the property, unless within 75 days after the day on which the property is seized:

2556 (a) the prosecuting attorney:

2557 (i) files a criminal indictment or information under Subsection [~~24-4-105(3)~~]

2558 77-11b-301(3);

2559 (ii) files a petition to transfer the property to another agency in accordance with Section

2560 [~~24-2-105~~] 77-11a-205; or

2561 (iii) files a civil forfeiture complaint under Section [~~24-4-104~~] 77-11b-302; or

2562 (b) the prosecuting attorney or a federal prosecutor obtains a restraining order under

2563 Subsection [~~24-4-105(4)~~] 77-11b-301(4).

2564 (2) (a) The prosecuting attorney may file a petition to extend the deadline under

2565 Subsection (1) by 21 days.

2566 (b) If a prosecuting attorney files a petition under Subsection (2)(a)[~~;~~] and the

2567 prosecuting attorney provides good cause for extending the deadline, a court shall grant the

2568 petition.

2569 (c) The prosecuting attorney may not file more than one petition under this Subsection  
2570 (2).

2571 (3) If a prosecuting attorney is unable to file a civil forfeiture complaint under  
2572 Subsection (1)(a)(iii) because a claimant has filed a claim under Section [~~24-2-108~~] 77-11a-504  
2573 and the claimant has an extension to provide additional information on the claim under  
2574 Subsection [~~24-2-108(1)(d)~~] 77-11a-504(1)(d), the deadline under Subsection (1) may be  
2575 extended by 15 days.

2576 Section 52. Section **77-11b-204**, which is renumbered from Section 24-4-111 is  
2577 renumbered and amended to read:

2578 [~~24-4-111~~]. **77-11b-204**. **Compensation for damaged property subject to**  
2579 **forfeiture.**

2580 (1) As used in this section, "damage or other injury" does not mean normal  
2581 depreciation, deterioration, or ordinary wear and tear of the property.

2582 (2) If seized property is returned under this chapter, a claimant has a civil right of  
2583 action against an agency for a claim based upon the negligent destruction, loss, or damage or  
2584 other injury to seized property while in the possession or custody of the agency.

2585 Section 53. Section **77-11b-301**, which is renumbered from Section 24-4-105 is  
2586 renumbered and amended to read:

2587 **Part 3. Forfeiture Proceedings**

2588 [~~24-4-105~~]. **77-11b-301**. **Forfeiture of seized property through the criminal case.**

2589 (1) As used in this section, "defendant" means a claimant who is criminally prosecuted  
2590 for the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~]  
2591 77-11b-102(1).

2592 (2) A prosecuting attorney may seek forfeiture of the defendant's interest in seized  
2593 property through the criminal case.

2594 (3) If the prosecuting attorney seeks forfeiture of a defendant's interest in seized  
2595 property through the criminal case, the prosecuting attorney shall state in the information or  
2596 indictment the grounds for which the agency seeks to forfeit the property.

2597 (4) (a) (i) A court may enter a restraining order or injunction or take any other  
2598 reasonable action to preserve property being forfeited under this section.

2599 (ii) Before a court's decision under Subsection (4)(a)(i), a known claimant, who can be  
2600 identified after due diligence, shall be:

2601 (A) provided notice; and

2602 (B) given an opportunity for a hearing.

2603 (iii) A court shall grant an order under Subsection (4)(a)(i) if:

2604 (A) there is a substantial probability that the state will prevail on the issue of forfeiture  
2605 and that failure to enter the order will result in the property being sold, transferred, destroyed,  
2606 or removed from the jurisdiction of the court or otherwise made unavailable for forfeiture; and

2607 (B) the need to preserve the availability of the property or prevent the property's sale,  
2608 transfer, destruction, or removal through the entry of the requested order outweighs the  
2609 hardship against a claimant against which the order is to be entered.

2610 (b) A court may enter a temporary restraining order ex parte upon application of the  
2611 prosecuting attorney or a federal prosecutor before or after an information or indictment has  
2612 been filed, with respect to the property, if the prosecuting attorney or federal prosecutor  
2613 demonstrates that:

2614 (i) there is probable cause to believe that the property with respect to which the order is  
2615 sought would, in the event of a conviction, be forfeited under this section; and

2616 (ii) providing notice to a claimant would jeopardize the availability of the property for  
2617 forfeiture or would jeopardize an ongoing criminal investigation.

2618 (c) The temporary order expires no more than 10 days after the day on which the order  
2619 is entered unless extended for good cause shown or unless the claimant against whom the  
2620 temporary order is entered consents to an extension.

2621 (d) After service of the temporary order upon a claimant known to the prosecuting  
2622 attorney or federal prosecutor, the court shall hold a hearing on the order as soon as practicable  
2623 and before the expiration of the temporary order.

2624 (e) The court is not bound by the Utah Rules of Evidence regarding evidence the court  
2625 may receive and consider at a hearing under this section.

2626 (5) Upon conviction of a defendant for the offense subjecting the property to forfeiture,  
2627 a court or jury shall find property forfeited to the state if the prosecuting attorney establishes,  
2628 beyond a reasonable doubt, that:

2629 (a) the defendant:

2630 (i) committed the offense subjecting the property to forfeiture under Subsection  
2631 ~~[24-4-102(†)]~~ [77-11b-102\(1\)](#);

2632 (ii) knew of the offense subjecting the property to forfeiture under Subsection  
2633 ~~[24-4-102(†)]~~ [77-11b-102\(1\)](#) and allowed the property to be used in furtherance of the offense;  
2634 or

2635 (iii) acquired the property at the time of the offense subjecting the property to forfeiture  
2636 under Subsection ~~[24-4-102(†)]~~ [77-11b-102\(1\)](#), or within a reasonable time after the offense  
2637 occurred; or

2638 (b) there is no likely source for the purchase or acquisition of the property other than  
2639 the commission of the offense subjecting the property to forfeiture under Subsection  
2640 ~~[24-4-102(†)]~~ [77-11b-102\(1\)](#).

2641 (6) (a) Upon conviction of a defendant for the offense subjecting the property to  
2642 forfeiture and a finding by a court or jury that the property is forfeited, the court shall enter a  
2643 judgment and order the property forfeited to the state upon the terms stated by the court in the  
2644 court's order.

2645 (b) Following the entry of an order declaring the property forfeited under Subsection  
2646 (6)(a), and upon application by the prosecuting attorney, the court may:

2647 (i) enter a restraining order or injunction;  
2648 (ii) require the execution of satisfactory performance bonds;  
2649 (iii) appoint a receiver, conservator, appraiser, accountant, or trustee; or  
2650 (iv) take any other action to protect the state's interest in property ordered forfeited.

2651 (7) (a) (i) After property is ordered forfeited under this section, the agency shall direct  
2652 the disposition of the property under Section ~~[24-4-115]~~ [77-11b-401](#).

2653 (ii) If property under Subsection (7)(a)(i) is not transferrable for value to the agency, or  
2654 the agency is not able to exercise an ownership interest in the property, the property may not  
2655 revert to the defendant.

2656 (iii) A defendant, or a person acting in concert with or on behalf of the defendant, is  
2657 not eligible to purchase forfeited property at any sale held by the agency unless approved by the  
2658 judge.

2659 (b) A court may stay the sale or disposition of the property pending the conclusion of  
2660 any appeal of the offense subjecting the property to forfeiture if the claimant demonstrates that

2661 proceeding with the sale or disposition of the property may result in irreparable injury, harm, or  
2662 loss.

2663 (8) If a defendant is acquitted of the offense subjecting the property to forfeiture under  
2664 this section on the merits:

2665 (a) (i) the property for which forfeiture is sought shall be returned to the claimant; or

2666 (ii) the open market value of the property for the property for which forfeiture is sought  
2667 shall be awarded to the claimant if the property has been disposed of under Section

2668 [~~24-4-103.3~~] [77-11b-202](#); and

2669 (b) any payment requirement under this chapter related to the holding of property shall  
2670 be paid to the claimant.

2671 (9) Except as provided under Subsection (4) or (12), a claimant claiming an interest in  
2672 property that is being forfeited under this section:

2673 (a) may not intervene in a trial or appeal of a criminal case involving the forfeiture of  
2674 the property; and

2675 (b) may not commence an action at law or equity concerning the validity of the  
2676 claimant's alleged interests in the property subsequent to the filing of an indictment or an  
2677 information alleging that the property is being forfeited under this section.

2678 (10) A court that has jurisdiction of a case under this part may enter orders under this  
2679 section without regard to the location of any property that is or has been ordered forfeited under  
2680 this section.

2681 (11) To facilitate the identification or location of property forfeited under this section,  
2682 and to facilitate the disposition of a petition for remission or mitigation of forfeiture after the  
2683 entry of an order declaring property forfeited to the agency, the court may, upon application of  
2684 the prosecuting attorney, order:

2685 (a) the testimony of any witness relating to the forfeited property be taken by  
2686 deposition; and

2687 (b) any book, paper, document, record, recording, or other material is produced in  
2688 accordance with the Utah Rules of Civil Procedure.

2689 (12) (a) If a court orders property forfeited under this section, the prosecuting attorney  
2690 shall publish notice of the intent to dispose of the property.

2691 (b) 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 of the  
2694 property occurred; and

2695 (ii) on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b).

2696 (c) The prosecuting attorney shall also send written notice to any claimants, other than  
2697 the defendant, known to the prosecuting attorney to have an interest in the property, at the  
2698 claimant's known address.

2699 (13) (a) A claimant, other than the defendant, may petition the court for a hearing to  
2700 adjudicate the validity of the claimant's alleged interest in property forfeited under this section.

2701 (b) A claimant shall file a petition within 30 days after the earlier of the day on which a  
2702 notice is published or the day on which the claimant receives written notice under Subsection  
2703 (12)(a).

2704 (14) The petition under Subsection (13) shall:

2705 (a) be in writing and signed by the claimant under penalty of perjury;

2706 (b) set forth the nature and extent of the claimant's right, title, or interest in the  
2707 property, the time and circumstances of the claimant's acquisition of the right, title, or interest  
2708 in the property; and

2709 (c) set forth any additional facts supporting the claimant's claim and the relief sought.

2710 (15) (a) The court shall expedite the trial or hearing under this Subsection (15) to the  
2711 extent practicable.

2712 (b) Any party may request a jury to decide any genuine issue of material fact.

2713 (c) The court may consolidate a trial or hearing on the petition under Subsection  
2714 (11)(b) and any other petition filed by a claimant, other than the defendant, under this section.

2715 (d) For a petition under this section, the court shall permit the parties to conduct  
2716 pretrial discovery in accordance with the Utah Rules of Civil Procedure.

2717 (e) (i) At the trial or hearing, the claimant may testify and present evidence and  
2718 witnesses on the claimant's own behalf and cross-examine witnesses who appear at the hearing.

2719 (ii) The prosecuting attorney may present evidence and witnesses in rebuttal and in  
2720 defense of the claim to the property and cross-examine witnesses who appear.

2721 (f) In addition to testimony and evidence presented at the trial or hearing, the court may  
2722 consider the relevant portion of the record of the criminal case that resulted in the order of



2723 forfeiture.

2724 (g) A trial or hearing shall be conducted in accordance with the Utah Rules of  
2725 Evidence.

2726 (16) The court shall amend the order of forfeiture in accordance with the court's  
2727 determination, if after the trial or hearing under Subsection (15), the court or jury determines  
2728 that the claimant has established, by a preponderance of the evidence, that:

2729 (a) (i) the claimant has a legal right, title, or interest in the property; and

2730 (ii) the claimant's right, title, or interest renders the order of forfeiture invalid in whole  
2731 or in part because the right, title, or interest was vested in the claimant rather than the  
2732 defendant, or was superior to any right, title, or interest of the defendant at the time of the  
2733 commission of the offense subjecting the property to forfeiture under Subsection [~~24-4-102~~(1)]  
2734 [77-11b-102](#)(1); or

2735 (b) the claimant acquired the right, title, or interest in the property in a bona fide  
2736 transaction for value, and, at the time of acquisition, the claimant did not know that the  
2737 property could be forfeited under this chapter.

2738 (17) An agency has clear title to the property and may transfer title to a purchaser or  
2739 transferee if:

2740 (a) the court issued a disposition on all petitions under Subsection (13) denying any  
2741 claimant's right, title, or interest to the property; or

2742 (b) a petition was not filed under the timelines provided in Subsection (13)(b).

2743 (18) If the prosecuting attorney seeks to discontinue a forfeiture proceeding under this  
2744 section and transfer the action to another state or federal agency that has initiated a civil or  
2745 criminal proceeding involving the same property, the prosecuting attorney shall file a petition  
2746 to transfer the property in accordance with Section [~~24-2-105~~] [77-11a-205](#).

2747 Section 54. Section **77-11b-302**, which is renumbered from Section 24-4-104 is  
2748 renumbered and amended to read:

2749 [~~24-4-104~~]. **77-11b-302. Civil forfeiture of seized property.**

2750 (1) (a) A prosecuting attorney may commence a civil action to forfeit seized property  
2751 by filing a complaint.

2752 (b) The complaint under Subsection (1)(a) shall describe with reasonable particularity:

2753 (i) the property that the agency is seeking to forfeit;

2754 (ii) the date and place of seizure; and  
2755 (iii) the factual allegations that constitute a basis for forfeiture.  
2756 (2) (a) After a complaint is filed, the prosecuting attorney shall serve a copy of the  
2757 complaint and summons upon each claimant known to the prosecuting attorney within 30 days  
2758 after the day on which the complaint is filed.  
2759 (b) The prosecuting attorney is not required to serve a copy of the complaint or the  
2760 summons upon a claimant which has disclaimed, in writing, an ownership interest in the seized  
2761 property.  
2762 (c) Service of the complaint and summons shall be by:  
2763 (i) personal service;  
2764 (ii) certified mail, with a return receipt requested, to the claimant's known address; or  
2765 (iii) service by publication, if the prosecuting attorney demonstrates to the court that  
2766 service cannot reasonably be made by personal service or certified mail.  
2767 (d) Service by publication shall be by publication of two notices, in two successive  
2768 weeks, of the forfeiture proceeding:  
2769 (i) in a newspaper of general circulation in the county in which the seizure occurred;  
2770 and  
2771 (ii) on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b).  
2772 (e) Service is effective upon the earlier of:  
2773 (i) personal service;  
2774 (ii) certified mail; or  
2775 (iii) publication in accordance with Subsection (2)(d).  
2776 (f) The court may extend the period to complete service under this section for an  
2777 additional 60 days if the prosecuting attorney:  
2778 (i) moves the court to extend the period to complete service; and  
2779 (ii) has shown good cause for extending service.  
2780 (3) (a) If a prosecuting attorney files a complaint for forfeiture as described in  
2781 Subsection (1), a claimant may file an answer to the complaint.  
2782 (b) If a claimant files an answer in accordance with Subsection (3)(a), the claimant  
2783 shall file the answer within 30 days after the day on which the complaint is served upon the  
2784 claimant.

2785 (c) If an agency is seeking to forfeit property [~~under Section 24-4-103 and the property~~]  
2786 that is valued at less than \$10,000, the agency shall return the property to the claimant if:

2787 (i) (A) the prosecuting attorney has filed a forfeiture complaint, and the claimant has  
2788 filed an answer, in accordance with Subsections (3)(a) and (b); and

2789 (B) the prosecuting attorney has not filed an information or indictment for the offense  
2790 for which the property is seized within 60 days after the day on which the prosecuting attorney  
2791 served the claimant with the complaint, or the prosecuting attorney has not timely moved a  
2792 court and demonstrated reasonable cause for extending the time to file the information or  
2793 indictment; or

2794 (ii) the information or indictment for the offense for which the property was seized was  
2795 dismissed and the prosecuting attorney has not refiled the information or indictment within  
2796 seven days after the day on which the information or indictment was dismissed.

2797 (d) A claimant is not entitled to any expenses, costs, or attorney fees for the return of  
2798 property to the claimant under Subsection (3)(c).

2799 (e) (i) The time limitations in Subsection (3)(c)(i) may be extended for up to 15 days if  
2800 a claimant timely seeks to recover possession of seized property in accordance with Section  
2801 [~~24-2-108~~] 77-11a-504.

2802 (ii) If the time limitations are extended under Subsection (3)(c)(i), the time limitations  
2803 in Subsection (3)(c)(i) shall resume immediately upon the agency's or prosecuting attorney's  
2804 timely denial of a claim under Section [~~24-2-108~~] 77-11a-504 on the merits.

2805 (4) Except as otherwise provided in this chapter, a civil action for a forfeiture  
2806 proceeding is governed by the Utah Rules of Civil Procedure.

2807 (5) The court shall:

2808 (a) take all reasonable steps to expedite a civil forfeiture proceeding; and

2809 (b) give a civil forfeiture proceeding the same priority as a criminal case.

2810 (6) A claimant may file an answer to a complaint for civil forfeiture without posting  
2811 bond with respect to the property that the agency seeks to forfeit.

2812 (7) A court shall grant an agency's request to forfeit property if the prosecuting attorney  
2813 establishes, by clear and convincing evidence, that:

2814 (a) the claimant:

2815 (i) committed the offense subjecting the property to forfeiture under Subsection

2816 [~~24-4-102(1)~~] [77-11b-102\(1\)](#);

2817 (ii) knew of the offense subjecting the property to forfeiture under Subsection

2818 [24-4-102\(1\)](#) and allowed the property to be used in furtherance of the offense; or

2819 (iii) acquired the property at the time of the offense subjecting the property to forfeiture

2820 under Subsection [~~24-4-102(1)~~] [77-11b-102\(1\)](#), or within a reasonable time after the offense

2821 occurred; or

2822 (b) there is no likely source for the purchase or acquisition of the property other than

2823 the commission of the offense subjecting the property to forfeiture under Subsection

2824 [~~24-4-102(1)~~] [77-11a-102\(1\)](#).

2825 (8) If a court finds that the property is the proceeds of an offense that subjects the

2826 proceeds to forfeiture under Subsection [~~24-4-102(1)~~] [77-11b-102\(1\)](#), the prosecuting attorney

2827 does not need to prove that the property was the proceeds of a particular exchange or

2828 transaction.

2829 (9) If a claimant is acquitted of the offense subjecting the property to forfeiture under

2830 this section:

2831 (a) (i) the property for which forfeiture is sought shall be returned to the claimant; or

2832 (ii) the open market value of the property for the property for which forfeiture is sought

2833 shall be awarded to the claimant if the property has been disposed of under Section

2834 [~~24-4-103.3~~] [77-11b-202](#); and

2835 (b) any payment requirement under this chapter related to the holding of property shall

2836 be paid to the claimant.

2837 (10) If the prosecuting attorney seeks to discontinue a forfeiture proceeding under this

2838 section and transfer the action to another state or federal agency that has initiated a civil or

2839 criminal proceeding involving the same property, the prosecuting attorney shall file a petition

2840 to transfer the property in accordance with Section [~~24-2-105~~] [77-11a-205](#).

2841 (11) A civil forfeiture action under this section may be converted to a criminal

2842 forfeiture action at any time after a prosecuting attorney files a criminal complaint, information,

2843 or indictment for the offense subjecting the property to forfeiture under Subsection

2844 [~~24-4-102(1)~~] [77-11b-102\(1\)](#).

2845 Section 55. Section **77-11b-303**, which is renumbered from Section 24-4-113 is

2846 renumbered and amended to read:

2847 ~~[24-4-113]~~. 77-11b-303. Proportionality of forfeiture.

2848 (1) (a) A claimant's interest in property that is used to facilitate an offense may not be  
2849 forfeited under any provision of state law if the forfeiture is substantially disproportionate to  
2850 the use of the property in committing or facilitating an offense that is a violation of state law  
2851 and the value of the property.

2852 (b) If property is used solely in a manner that is merely incidental and not instrumental  
2853 to the commission or facilitation of an offense, a forfeiture of the property is not proportional.

2854 (2) (a) In determining proportionality, the court shall consider:

2855 (i) the offense subjecting the property to forfeiture under Subsection ~~[24-4-102(1)]~~  
2856 77-11b-102(1);

2857 (ii) what portion of the forfeiture, if any, is remedial in nature;

2858 (iii) the gravity of the conduct for which the claimant is responsible in light of the  
2859 offense; and

2860 (iv) the value of the property.

2861 (b) If the court finds that the forfeiture is substantially disproportional to an offense for  
2862 which the claimant is responsible, the court shall reduce or eliminate the forfeiture as the court  
2863 finds appropriate.

2864 (3) A prosecuting attorney has the burden of demonstrating that a forfeiture is  
2865 proportional to the offense subjecting the property to forfeiture under Subsection ~~[24-4-102(1)]~~  
2866 77-11b-102(1).

2867 (4) In all cases, the court shall decide questions of proportionality.

2868 (5) A forfeiture of any proceeds used to facilitate the commission of an offense that is a  
2869 violation of federal or state law is proportional.

2870 Section 56. Section 77-11b-304, which is renumbered from Section 24-4-109 is  
2871 renumbered and amended to read:

2872 ~~[24-4-109]~~. 77-11b-304. Postjudgment interest to prevailing party in forfeiture  
2873 proceeding.

2874 In a proceeding to forfeit currency or other negotiable instruments under this chapter,  
2875 the court shall award postjudgment interest to a prevailing party on the currency or negotiable  
2876 instruments at the interest rate established under Section 15-1-4.

2877 Section 57. Section 77-11b-305, which is renumbered from Section 24-4-110 is

2878 renumbered and amended to read:

2879 ~~[24-4-110]~~. 77-11b-305. **Attorney fees and costs for forfeiture proceeding.**

2880 (1) In a forfeiture proceeding under this chapter, a court shall award reasonable legal  
2881 costs and attorney fees to a prevailing claimant.

2882 (2) If a court awards legal costs and attorney fees to a prevailing claimant under  
2883 Subsection (1), the award may not exceed 50% of the value of the seized property.

2884 (3) A claimant who prevails only in part is entitled to recover reasonable legal costs  
2885 and attorney fees only on an issue on which the party prevailed.

2886 Section 58. Section **77-11b-306**, which is renumbered from Section 24-4-112 is  
2887 renumbered and amended to read:

2888 ~~[24-4-112]~~. 77-11b-306. **Limitation on fees for holding seized property subject**  
2889 **to forfeiture.**

2890 In any civil or criminal proceeding under this ~~[chapter]~~ part in which a judgment is  
2891 entered in favor of a claimant, or where a forfeiture proceeding against a claimant is voluntarily  
2892 dismissed by the prosecuting attorney, an agency may not charge a claimant any fee or cost for  
2893 holding seized property.

2894 Section 59. Section **77-11b-401**, which is renumbered from Section 24-4-115 is  
2895 renumbered and amended to read:

2896 **Part 4. Disposal and Allocation of Forfeited Property**

2897 ~~[24-4-115]~~. 77-11b-401. **Disposition and allocation of forfeited property.**

2898 (1) If a court finds that property is forfeited under this chapter, the court shall order the  
2899 property forfeited to the state.

2900 (2) (a) If the property is not currency, the agency shall authorize a public or otherwise  
2901 commercially reasonable sale of that property if the property is not required by law to be  
2902 destroyed and is not harmful to the public.

2903 (b) If the property forfeited is an alcoholic product as defined in Section [32B-1-102](#),  
2904 the property shall be disposed of as follows:

2905 (i) an alcoholic product shall be sold if the alcoholic product is:

2906 (A) unadulterated, pure, and free from any crude, unrectified, or impure form of ethylic  
2907 alcohol, or any other deleterious substance or liquid; and

2908 (B) otherwise in saleable condition; or

2909 (ii) an alcoholic product and the alcoholic product's package shall be destroyed if the  
2910 alcoholic product is impure, adulterated, or otherwise unfit for sale.

2911 (c) If the property forfeited is a cigarette or other tobacco product as defined in Section  
2912 [59-14-102](#), the property shall be destroyed, except that the lawful holder of the trademark rights  
2913 in the cigarette or tobacco product brand is permitted to inspect the cigarette before the  
2914 destruction of the cigarette or tobacco product.

2915 (d) The proceeds of the sale of forfeited property shall remain segregated from other  
2916 property, equipment, or assets of the agency until transferred in accordance with this chapter.

2917 (3) Before transferring currency and the proceeds or revenue from the sale of the  
2918 property in accordance with this chapter, the agency shall:

2919 (a) deduct the agency's direct costs, expense of reporting under Section [\[24-4-118\]](#)  
2920 [77-11b-404](#), and expense of obtaining and maintaining the property pending a forfeiture  
2921 proceeding; and

2922 (b) if the prosecuting agency that employed the prosecuting attorney has met the  
2923 requirements of Subsection [\[24-4-119\(3\)\] 77-11b-105\(3\)](#), pay the prosecuting attorney the legal  
2924 costs associated with the litigation of the forfeiture proceeding, and up to 20% of the value of  
2925 the forfeited property in attorney fees.

2926 (4) If the forfeiture arises from a violation relating to wildlife resources, the agency  
2927 shall deposit any remaining currency and the proceeds or revenue from the sale of the property  
2928 into the Wildlife Resources Account created in Section [23-14-13](#).

2929 (5) The agency shall transfer any remaining currency, the proceeds, or revenue from the  
2930 sale of the property to the commission and deposited into the ~~[account]~~ Criminal Forfeiture  
2931 Restricted Account created in Section [77-11b-402](#).

2932 Section 60. Section [77-11b-402](#), which is renumbered from Section 24-4-116 is  
2933 renumbered and amended to read:

2934 ~~[24-4-116]~~. **[77-11b-402. Criminal Forfeiture Restricted Account.](#)**

2935 (1) There is created within the General Fund a restricted account known as the  
2936 "Criminal Forfeiture Restricted Account."

2937 (2) Except as provided in Section [\[24-4-115\] 77-11b-401](#), the commission shall deposit  
2938 any proceeds from ~~[forfeited property and forfeited money]~~ property forfeited through a  
2939 forfeiture proceeding under this chapter into the ~~[account]~~ Criminal Forfeiture Restricted

2940 Account.

2941 (3) [~~Money in the account shall be appropriated~~] The Legislature shall appropriate  
2942 money in the Criminal Forfeiture Restricted Account to the commission for the purpose of  
2943 implementing the [~~program under Section 24-4-117~~] State Asset Forfeiture Grant Program  
2944 described in Section 77-11b-403.

2945 Section 61. Section **77-11b-403**, which is renumbered from Section 24-4-117 is  
2946 renumbered and amended to read:

2947 ~~[24-4-117]~~. **77-11b-403. State Asset Forfeiture Grant Program.**

2948 (1) There is created the State Asset Forfeiture Grant Program.

2949 (2) The program shall fund crime prevention, crime victim reparations, and law  
2950 enforcement activities that have the purpose of:

2951 (a) deterring crime by depriving criminals of the profits and proceeds of their illegal  
2952 activities;

2953 (b) weakening criminal enterprises by removing the instrumentalities of crime;

2954 (c) reducing crimes involving substance abuse by supporting the creation,  
2955 administration, or operation of drug court programs throughout the state;

2956 (d) encouraging cooperation between agencies;

2957 (e) allowing the costs and expenses of law enforcement to be defrayed by the forfeited  
2958 proceeds of crime;

2959 (f) increasing the equitability and accountability of the use of forfeited property used to  
2960 assist agencies in reducing and preventing crime; and

2961 (g) providing aid to victims of criminally injurious conduct, as defined in Section  
2962 [63M-7-502](#), who may be eligible for assistance under Title 63M, Chapter 7, Part 5, Utah Office  
2963 for Victims of Crime.

2964 (3) (a) Upon appropriation of funds from the [~~account~~] Criminal Forfeiture Restricted  
2965 Account, the commission shall allocate and administer grants to an agency or political  
2966 subdivision of the state in compliance with this section and Subsection [~~24-4-119(2)~~]  
2967 [77-11b-105\(2\)](#) and to further the program purposes under Subsection (2).

2968 (b) The commission may retain up to 3% of the annual appropriation from the  
2969 [~~account~~] Criminal Forfeiture Restricted Account to pay for administrative costs incurred by  
2970 the commission, including salary and benefits, equipment, supplies, or travel costs that are



2971 directly related to the administration of the program.

2972 (4) An agency or political subdivision shall apply for an award from the program by  
2973 completing and submitting forms specified by the commission.

2974 (5) In granting the awards, the commission shall ensure that the amount of each award  
2975 takes into consideration the:

2976 (a) demonstrated needs of the agency or political subdivision;

2977 (b) demonstrated ability of the agency or political subdivision to appropriately use the  
2978 award;

2979 (c) degree to which the agency's or political subdivision's need is offset through the  
2980 agency's or political subdivision's participation in federal equitable sharing or through other  
2981 federal and state grant programs; and

2982 (d) agency's or political subdivision's cooperation with other state and local agencies  
2983 and task forces.

2984 (6) The commission may award a grant to any agency or political subdivision engaged  
2985 in activities associated with Subsection (2) even if the agency has not contributed to the fund.

2986 (7) An applying agency or political subdivision shall demonstrate compliance with all  
2987 reporting and policy requirements applicable under this chapter and under Title 63M, Chapter  
2988 7, Criminal Justice and Substance Abuse, in order to qualify as a potential award recipient.

2989 (8) (a) A recipient agency may only use award money after approval by the agency's  
2990 legislative body.

2991 (b) The award money is nonlapsing.

2992 (9) A recipient agency or political subdivision shall use an award:

2993 (a) only for law enforcement purposes described in this section, or for victim  
2994 reparations as described in Subsection (2)(g); and

2995 (b) for the purposes specified by the agency or political subdivision in the agency's or  
2996 political subdivision's application for the award.

2997 (10) A permissible law enforcement purpose for which award money may be used  
2998 includes:

2999 (a) controlled substance interdiction and enforcement activities;

3000 (b) drug court programs;

3001 (c) activities calculated to enhance future law enforcement investigations;

- 3002 (d) law enforcement training that includes:
- 3003 (i) implementation of the Fourth Amendment to the United States Constitution and
- 3004 Utah Constitution, Article I, Section 7, and that addresses the protection of the individual's
- 3005 right of due process;
- 3006 (ii) protection of the rights of innocent property holders; and
- 3007 (iii) the Tenth Amendment to the United States Constitution regarding states'
- 3008 sovereignty and the states' reserved rights;
- 3009 (e) law enforcement or detention facilities;
- 3010 (f) law enforcement operations or equipment that are not routine costs or operational
- 3011 expenses;
- 3012 (g) drug, gang, or crime prevention education programs that are sponsored in whole or
- 3013 in part by the law enforcement agency or its legislative body;
- 3014 (h) matching funds for other state or federal law enforcement grants; and
- 3015 (i) the payment of legal costs, attorney fees, and postjudgment interest in forfeiture
- 3016 actions.

3017 (11) A law enforcement purpose for which award money may not be granted or used  
3018 includes:

- 3019 (a) payment of salaries, retirement benefits, or bonuses to any individual;
- 3020 (b) payment of expenses not related to law enforcement;
- 3021 (c) uses not specified in the agency's award application;
- 3022 (d) uses not approved by the agency's legislative body;
- 3023 (e) payments, transfers, or pass-through funding to an entity other than an agency; or
- 3024 (f) uses, payments, or expenses that are not within the scope of the agency's functions.

3025 Section 62. Section **77-11b-404**, which is renumbered from Section 24-4-118 is  
3026 renumbered and amended to read:

3027 ~~[24-4-118]~~. **77-11b-404. Forfeiture reporting requirements.**

- 3028 (1) An agency shall provide all reasonably available data described in Subsection (5):
- 3029 (a) if transferring the forfeited property resulting from the final disposition of any civil
- 3030 or criminal forfeiture matter to the commission as required under Subsection ~~[24-4-115(5)]~~
- 3031 77-11b-401(5); or
- 3032 (b) if the agency has been awarded an equitable share of property forfeited by the

3033 federal government.

3034 (2) The commission shall develop a standardized report format that each agency shall  
3035 use in reporting the data required under this section.

3036 (3) The commission shall annually, on or before April 30, prepare a summary report of  
3037 the case data submitted by each agency under Subsection (1) during the prior calendar year.

3038 (4) (a) If an agency does not comply with the reporting requirements under this section,  
3039 the commission shall contact the agency and request that the agency comply with the required  
3040 reporting provisions.

3041 (b) If an agency fails to comply with the reporting requirements under this section  
3042 within 30 days after receiving the request to comply, the commission shall report the  
3043 noncompliance to the attorney general, the speaker of the House of Representatives, and the  
3044 president of the Senate.

3045 (5) The data for any civil or criminal forfeiture matter for which final disposition has  
3046 been made under Subsection (1) shall include:

3047 (a) the agency that conducted the seizure;

3048 (b) the case number or other identification;

3049 (c) the date or dates on which the seizure was conducted;

3050 (d) the number of individuals having a known property interest in each seizure of  
3051 property;

3052 (e) the type of property seized;

3053 (f) the alleged offense that was the cause for seizure of the property;

3054 (g) whether any criminal charges were filed regarding the alleged offense, and if so, the  
3055 final disposition of each charge, including the conviction, acquittal, or dismissal, or whether  
3056 action on a charge is pending;

3057 (h) the type of enforcement action that resulted in the seizure, including an  
3058 enforcement stop, a search warrant, or an arrest warrant;

3059 (i) whether the forfeiture procedure was civil or criminal;

3060 (j) the value of the property seized, including currency and the estimated market value  
3061 of any tangible property;

3062 (k) the final disposition of the matter, including whether final disposition was entered  
3063 by stipulation of the parties, including the amount of property returned to any claimant, by

3064 default, by summary judgment, by jury award, or by guilty plea or verdict in a criminal  
3065 forfeiture;

3066 (l) if the property was forfeited by the federal government, the amount of forfeited  
3067 money awarded to the agency;

3068 (m) the agency's direct costs, expense of reporting under this section, and expenses for  
3069 obtaining and maintaining the seized property, as described in Subsection [~~24-4-115(3)(a)~~  
3070 [77-11b-401\(3\)\(a\)](#)];

3071 (n) the legal costs and attorney fees paid to the prosecuting attorney, as described in  
3072 Subsection [~~24-4-115(3)(b)~~] [77-11b-401\(3\)\(b\)](#); and

3073 (o) if the property was transferred to a federal agency or any governmental entity not  
3074 created under and subject to state law:

3075 (i) the date of the transfer;

3076 (ii) the name of the federal agency or entity to which the property was transferred;

3077 (iii) a reference to which reason under Subsection [~~24-2-106(3)~~] [77-11a-205\(3\)](#)  
3078 justified the transfer;

3079 (iv) the court or agency where the forfeiture case was heard;

3080 (v) the date of the order of transfer of the property; and

3081 (vi) the value of the property transferred to the federal agency, including currency and  
3082 the estimated market value of any tangible property.

3083 (6) An agency shall annually on or before April 30 submit a report for the prior  
3084 calendar year to the commission that states:

3085 (a) whether the agency received an award from the State Asset Forfeiture Grant  
3086 Program under Section [~~24-4-117~~] [77-11b-403](#) and, if so, the following information for each  
3087 award:

3088 (i) the amount of the award;

3089 (ii) the date of the award;

3090 (iii) how the award was used or is planned to be used; and

3091 (iv) a statement signed by both the agency's executive officer or designee and by the  
3092 agency's legal counsel, that:

3093 (A) the agency has complied with all inventory, policy, and reporting requirements  
3094 under Section [~~24-4-117~~] [77-11b-403](#); and

3095 (B) all awards were used for crime reduction or law enforcement purposes as specified  
3096 in the application and that the awards were used only upon approval by the agency's legislative  
3097 body; and

3098 (b) whether the agency received any property, money, or other things of value in  
3099 accordance with federal law as described in Subsection [~~24-2-105(7)~~] 77-11a-205(7) and, if so,  
3100 the following information for each piece of property, money, or other thing of value:

3101 (i) the case number or other case identification;

3102 (ii) the value of the award and the property, money, or other things of value received by  
3103 the agency;

3104 (iii) the date of the award;

3105 (iv) the identity of any federal agency involved in the forfeiture;

3106 (v) how the awarded property has been used or is planned to be used; and

3107 (vi) a statement signed by both the agency's executive officer or designee and by the  
3108 agency's legal counsel, that the agency has only used the award for crime reduction or law  
3109 enforcement purposes authorized under Section [~~24-4-117~~] 77-11b-403, and that the award was  
3110 used only upon approval by the agency's legislative body.

3111 (7) (a) On or before July 1 of each year, the commission shall submit notice of the  
3112 annual reports in Subsection (3) and Subsection (6), in electronic format, to:

3113 (i) the attorney general;

3114 (ii) the speaker of the House of Representatives, for referral to any House standing or  
3115 interim committees with oversight over law enforcement and criminal justice;

3116 (iii) the president of the Senate, for referral to any Senate standing or interim  
3117 committees with oversight over law enforcement and criminal justice; and

3118 (iv) each law enforcement agency.

3119 (b) The reports described in Subsection (3) and Subsection (6), as well as the  
3120 individual case data described in Subsection (1) for the previous calendar year, shall be  
3121 published on the Utah Open Government website at open.utah.gov on or before July 15 of each  
3122 year.

3123 Section 63. Section **77-11c-101**, which is renumbered from Section 77-24a-1 is  
3124 renumbered and amended to read:

3125 **CHAPTER 11c. LOST OR MISLAID PROPERTY**

3126 ~~[77-24a-1].~~ 77-11c-101. Definitions.

3127 As used in this chapter:

3128 (1) "Lost or mislaid property":

3129 (a) means any property that comes into the possession of a peace officer or law

3130 enforcement agency:

3131 (i) that is not claimed by anyone who is identified as the owner of the property; or

3132 (ii) for which no owner or interest holder can be found after a reasonable and diligent  
3133 search;

3134 (b) includes any property received by a peace officer or law enforcement agency from a  
3135 person claiming to have found the property; and

3136 (c) does not include property seized by a peace officer [~~pursuant to Title 24, Forfeiture~~  
3137 ~~and Disposition of Property Act]~~ in accordance with Chapter 11a, Seizure and Retention of  
3138 Property and Contraband.

3139 (2) "Public interest use" means:

3140 (a) use by a governmental agency as determined by the agency's legislative body; or

3141 (b) donation to a nonprofit charity registered with the state.

3142 Section 64. Section 77-11c-102, which is renumbered from Section 77-24a-2 is  
3143 renumbered and amended to read:

3144 ~~[77-24a-2].~~ 77-11c-102. Disposition by police agency.

3145 All lost or mislaid property coming into the possession of a peace officer or law  
3146 enforcement agency shall be turned over to, held, and disposed of only by the local law  
3147 enforcement agency whose authority extends to the area where the item was found.

3148 Section 65. Section 77-11c-103, which is renumbered from Section 77-24a-3 is  
3149 renumbered and amended to read:

3150 ~~[77-24a-3].~~ 77-11c-103. Statement of finder of property.

3151 (1) A person who finds lost or mislaid property and delivers it to a local law  
3152 enforcement agency shall sign a statement included in a form provided by the agency, stating:

3153 (a) the manner in which the property came into the person's possession, including the  
3154 time, date, and place;

3155 (b) that the person does not know who owns the property;

3156 (c) that, to the person's knowledge, the property was not stolen;

3157 (d) that the person's possession of the property is not unlawful; and  
3158 (e) any information the person is aware of which could lead to a determination of the  
3159 owner.

3160 (2) Additional information may be requested by the agency receiving the property, as  
3161 necessary.

3162 Section 66. Section **77-11c-104**, which is renumbered from Section 77-24a-4 is  
3163 renumbered and amended to read:

3164 ~~[77-24a-4]~~. **77-11c-104. Locating owner of property.**

3165 (1) The local law enforcement agency shall take reasonable steps to determine the  
3166 identity and location of the owner, and notify the owner that the property is in custody.

3167 (2) The owner may obtain the property only by providing personal identification,  
3168 identifying the property, and paying any costs incurred by the agency, including costs for  
3169 advertising or storage.

3170 Section 67. Section **77-11c-105**, which is renumbered from Section 77-24a-5 is  
3171 renumbered and amended to read:

3172 ~~[77-24a-5]~~. **77-11c-105. Disposition of unclaimed property.**

3173 (1) (a) If the owner of any lost or mislaid property cannot be determined or notified, or  
3174 if the owner of the property is determined and notified, and fails to appear and claim the  
3175 property after three months of [its] the property's receipt by the local law enforcement agency,  
3176 the agency shall:

3177 (i) publish notice of the intent to dispose of the unclaimed property on Utah's Public  
3178 Legal Notice Website established in Subsection [45-1-101\(2\)\(b\)](#);

3179 (ii) post a similar notice on the public website of the political subdivision within which  
3180 the law enforcement agency is located; and

3181 (iii) post a similar notice in a public place designated for notice within the law  
3182 enforcement agency.

3183 (b) The notice shall:

3184 (i) give a general description of the item; and

3185 (ii) the date of intended disposition.

3186 (c) The agency may not dispose of the lost or mislaid property until at least eight days  
3187 after the date of publication and posting.

3188 (2) (a) If no claim is made for the lost or mislaid property within nine days of  
3189 publication and posting, the agency shall notify the person who turned the property over to the  
3190 local law enforcement agency, if it was turned over by a person under Section [~~77-24a-3~~]  
3191 [77-11c-103](#).

3192 (b) Except as provided in Subsection (4), if that person has complied with the  
3193 provisions of this chapter, the person may take the lost or mislaid property if the person:

- 3194 (i) pays the costs incurred for advertising and storage; and
- 3195 (ii) signs a receipt for the item.

3196 (3) If the person who found the lost or mislaid property fails to take the property under  
3197 the provisions of this chapter, the agency shall:

3198 (a) apply the property to a public interest use as provided in Subsection (4);

3199 (b) sell the property at public auction and apply the proceeds of the sale to a public  
3200 interest use; or

3201 (c) destroy the property if it is unfit for a public interest use or sale.

3202 (4) Before applying the lost or mislaid property to a public interest use, the agency  
3203 having possession of the property shall obtain from the agency's legislative body:

3204 (a) permission to apply the property to a public interest use; and

3205 (b) the designation and approval of the public interest use of the property.

3206 (5) Any person employed by a law enforcement agency who finds property may not  
3207 claim or receive property under this section.

3208 Section 68. Section ~~77-37-3~~ is amended to read:

3209 **77-37-3. Bill of rights.**

3210 (1) The bill of rights for victims and witnesses is:

3211 (a) Victims and witnesses have a right to be informed as to the level of protection from  
3212 intimidation and harm available to them, and from what sources, as they participate in criminal  
3213 justice proceedings as designated by Section [76-8-508](#), regarding witness tampering, and  
3214 Section [76-8-509](#), regarding threats against a victim. Law enforcement, prosecution, and  
3215 corrections personnel have the duty to timely provide this information in a form which is useful  
3216 to the victim.

3217 (b) Victims and witnesses, including children and their guardians, have a right to be  
3218 informed and assisted as to their role in the criminal justice process. All criminal justice



3219 agencies have the duty to provide this information and assistance.

3220 (c) Victims and witnesses have a right to clear explanations regarding relevant legal  
3221 proceedings; these explanations shall be appropriate to the age of child victims and witnesses.  
3222 All criminal justice agencies have the duty to provide these explanations.

3223 (d) Victims and witnesses should have a secure waiting area that does not require them  
3224 to be in close proximity to defendants or the family and friends of defendants. Agencies  
3225 controlling facilities shall, whenever possible, provide this area.

3226 (e) Victims may seek restitution or reparations, including medical costs, as provided in  
3227 Title 63M, Chapter 7, Criminal Justice and Substance Abuse, Title 77, Chapter 38b, Crime  
3228 Victims Restitution Act, and Section 80-6-710. State and local government agencies that serve  
3229 victims have the duty to have a functional knowledge of the procedures established by the  
3230 Crime Victim Reparations Board and to inform victims of these procedures.

3231 (f) Victims and witnesses have a right to have any personal property returned as  
3232 provided in [~~Sections 77-24a-1 through 77-24a-5~~] Chapter 11a, Seizure and Retention of  
3233 Property and Contraband, and Chapter 11c, Lost or Mislaid Property. Criminal justice agencies  
3234 shall expeditiously return the property when it is no longer needed for court law enforcement or  
3235 prosecution purposes.

3236 (g) Victims and witnesses have the right to reasonable employer intercession services,  
3237 including pursuing employer cooperation in minimizing employees' loss of pay and other  
3238 benefits resulting from their participation in the criminal justice process. Officers of the court  
3239 shall provide these services and shall consider victims' and witnesses' schedules so that  
3240 activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may  
3241 request that the responsible agency intercede with employers or other parties.

3242 (h) Victims and witnesses, particularly children, should have a speedy disposition of  
3243 the entire criminal justice process. All involved public agencies shall establish policies and  
3244 procedures to encourage speedy disposition of criminal cases.

3245 (i) Victims and witnesses have the right to timely notice of judicial proceedings they  
3246 are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies  
3247 have the duty to provide these notifications. Defense counsel and others have the duty to  
3248 provide timely notice to prosecution of any continuances or other changes that may be required.

3249 (j) Victims of sexual offenses have the following rights:

3250 (i) the right to request voluntary testing for themselves for HIV infection as provided in  
3251 Section 53-10-803 and to request mandatory testing of the alleged sexual offender for HIV  
3252 infection as provided in Section 53-10-802;

3253 (ii) the right to be informed whether a DNA profile was obtained from the testing of  
3254 the rape kit evidence or from other crime scene evidence;

3255 (iii) the right to be informed whether a DNA profile developed from the rape kit  
3256 evidence or other crime scene evidence has been entered into the Utah Combined DNA Index  
3257 System;

3258 (iv) the right to be informed whether there is a match between a DNA profile  
3259 developed from the rape kit evidence or other crime scene evidence and a DNA profile  
3260 contained in the Utah Combined DNA Index System, provided that disclosure would not  
3261 impede or compromise an ongoing investigation; and

3262 (v) the right to designate a person of the victim's choosing to act as a recipient of the  
3263 information provided under this Subsection (1)(j) and under Subsections (2) and (3).

3264 (k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency  
3265 communicate with the victim or the victim's designee regarding the status of DNA testing,  
3266 absent a specific request received from the victim or the victim's designee.

3267 (2) The law enforcement agency investigating a sexual offense may:

3268 (a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the  
3269 request of a victim or the victim's designee and is the designated agency to provide that  
3270 information to the victim or the victim's designee;

3271 (b) require that the victim's request be in writing; and

3272 (c) respond to the victim's request with verbal communication, written communication,  
3273 or by email, if an email address is available.

3274 (3) The law enforcement agency investigating a sexual offense has the following  
3275 authority and responsibilities:

3276 (a) If the law enforcement agency determines that DNA evidence will not be analyzed  
3277 in a case where the identity of the perpetrator has not been confirmed, the law enforcement  
3278 agency shall notify the victim or the victim's designee.

3279 (b) (i) If the law enforcement agency intends to destroy or dispose of rape kit evidence  
3280 or other crime scene evidence from an unsolved sexual assault case, the law enforcement

3281 agency shall provide written notification of that intention and information on how to appeal the  
3282 decision to the victim or the victim's designee of that intention.

3283 (ii) Written notification under this Subsection (3) shall be made not fewer than 60 days  
3284 prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.

3285 (c) A law enforcement agency responsible for providing information under Subsections  
3286 (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the  
3287 victim or the victim's designee, shall advise the victim or the victim's designee of any  
3288 significant changes in the information of which the law enforcement agency is aware.

3289 (d) The law enforcement agency investigating the sexual offense is responsible for  
3290 informing the victim or the victim's designee of the rights established under Subsections  
3291 (1)(j)(ii) through (iv) and (2), and this Subsection (3).

3292 (4) Informational rights of the victim under this chapter are based upon the victim  
3293 providing the current name, address, telephone number, and email address, if an email address  
3294 is available, of the person to whom the information should be provided to the criminal justice  
3295 agencies involved in the case.

3296 Section 69. Section **78B-9-104** is amended to read:

3297 **78B-9-104. Grounds for relief -- Retroactivity of rule.**

3298 (1) Unless precluded by Section **78B-9-106** or **78B-9-107**, an individual who has been  
3299 convicted and sentenced for a criminal offense may file an action in the district court of  
3300 original jurisdiction for postconviction relief to vacate or modify the conviction or sentence  
3301 upon the following grounds:

3302 (a) the conviction was obtained or the sentence was imposed in violation of the United  
3303 States Constitution or Utah Constitution;

3304 (b) the conviction was obtained or the sentence was imposed under a statute that is in  
3305 violation of the United States Constitution or Utah Constitution, or the conduct for which the  
3306 petitioner was prosecuted is constitutionally protected;

3307 (c) the sentence was imposed or probation was revoked in violation of the controlling  
3308 statutory provisions;

3309 (d) the petitioner had ineffective assistance of counsel in violation of the United States  
3310 Constitution or Utah Constitution;

3311 (e) newly discovered material evidence exists that requires the court to vacate the

3312 conviction or sentence, because:

3313 (i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of  
3314 trial or sentencing or in time to include the evidence in any previously filed post-trial motion or  
3315 postconviction proceeding, and the evidence could not have been discovered through the  
3316 exercise of reasonable diligence;

3317 (ii) the material evidence is not merely cumulative of evidence that was known;

3318 (iii) the material evidence is not merely impeachment evidence; and

3319 (iv) viewed with all the other evidence, the newly discovered material evidence  
3320 demonstrates that no reasonable trier of fact could have found the petitioner guilty of the  
3321 offense or subject to the sentence received;

3322 (f) the petitioner can prove that:

3323 (i) biological evidence, as that term is defined in Section [~~53-20-101~~] [77-11a-101](#),  
3324 relevant to the petitioner's conviction was not preserved in accordance with [~~Title 53, Chapter~~  
3325 ~~20, Forensic Biological Evidence Preservation~~] Title 77, Chapter 11a, Part 4, Preservation of  
3326 Biological Evidence for Violent Felony Offenses;

3327 (ii) (A) the biological evidence described in Subsection (1)(f)(i) was not tested  
3328 previously; or

3329 (B) if the biological evidence described in Subsection (1)(f)(i) was tested previously,  
3330 there is a material change in circumstance, including a scientific or technological advance, that  
3331 would make it plausible that a test of the biological evidence described in Subsection (1)(f)(i)  
3332 would produce a favorable test result for the petitioner; and

3333 (iii) a favorable result described in Subsection (1)(f)(ii), which is presumed for  
3334 purposes of the petitioner's action under this section, when viewed with all the other evidence,  
3335 demonstrates a reasonable probability of a more favorable outcome at trial for the petitioner;

3336 (g) the petitioner can prove entitlement to relief under a rule announced by the United  
3337 States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction  
3338 and sentence became final on direct appeal, and that:

3339 (i) the rule was dictated by precedent existing at the time the petitioner's conviction or  
3340 sentence became final; or

3341 (ii) the rule decriminalizes the conduct that comprises the elements of the crime for  
3342 which the petitioner was convicted; or

3343 (h) the petitioner committed any of the following offenses while subject to force, fraud,  
3344 or coercion, as defined in Section 76-5-308:

3345 (i) Section 58-37-8, possession of a controlled substance;

3346 (ii) Section 76-10-1304, aiding prostitution;

3347 (iii) Section 76-6-206, criminal trespass;

3348 (iv) Section 76-6-413, theft;

3349 (v) Section 76-6-502, possession of forged writing or device for writing;

3350 (vi) Sections 76-6-602 through 76-6-608, retail theft;

3351 (vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification  
3352 document;

3353 (viii) Section 76-9-702, lewdness;

3354 (ix) Section 76-10-1302, prostitution; or

3355 (x) Section 76-10-1313, sexual solicitation.

3356 (2) The court may not grant relief from a conviction or sentence unless in light of the  
3357 facts proved in the postconviction proceeding, viewed with the evidence and facts introduced at  
3358 trial or during sentencing:

3359 (a) the petitioner establishes that there would be a reasonable likelihood of a more  
3360 favorable outcome; or

3361 (b) if the petitioner challenges the conviction or the sentence on grounds that the  
3362 prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner  
3363 establishes that the false testimony, in any reasonable likelihood, could have affected the  
3364 judgment of the fact finder.

3365 (3) (a) The court may not grant relief from a conviction based on a claim that the  
3366 petitioner is innocent of the crime for which convicted except as provided in Part 3,  
3367 Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

3368 (b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction  
3369 Determination of Factual Innocence, of this chapter may not be filed as part of a petition under  
3370 this part, but shall be filed separately and in conformity with the provisions of Part 3,  
3371 Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

3372 Section 70. **Repealer.**

3373 This bill repeals:

- 3374 Section **24-1-101**, Title.
- 3375 Section **24-2-101**, Title.
- 3376 Section **24-2-106**, Retention of property.
- 3377 Section **24-3-101**, Title.
- 3378 Section **24-4-101**, Title.
- 3379 Section **53-20-101**, Definitions.