

Senator Wayne A. Harper proposes the following substitute bill:

PROPERTY AND CONTRABAND AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Ken Ivory

LONG TITLE

General Description:

This bill amends provisions regarding property and contraband.

Highlighted Provisions:

This bill:

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



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

40 Money Appropriated in this Bill:

41 None

42 Other Special Clauses:

43 None

44 Utah Code Sections Affected:

45 AMENDS:

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

57 **63A-16-1002**, as enacted by Laws of Utah 2022, Chapter 390 and last amended by
58 Coordination Clause, Laws of Utah 2022, Chapter 390

59 **63I-1-263**, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236,
60 249, 274, 296, 313, 361, 362, 417, 419, and 472

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

63 **76-5-109.3**, as enacted by Laws of Utah 2022, Chapter 181

64 **76-6-111**, as last amended by Laws of Utah 2021, Chapters 57, 260

65 **76-6-501**, as last amended by Laws of Utah 2016, Chapter 117

66 **76-6-1303**, as last amended by Laws of Utah 2015, Chapter 258

67 **76-10-503**, as last amended by Laws of Utah 2021, Chapter 262

68 **76-10-1108**, as last amended by Laws of Utah 2015, Chapter 258

69 **76-10-1112**, as enacted by Laws of Utah 2020, Chapter 291

70 **77-37-3**, as last amended by Laws of Utah 2022, Chapter 430

71 **78B-9-104**, as last amended by Laws of Utah 2022, Chapter 120

72 ENACTS:

73 **77-11a-301**, Utah Code Annotated 1953

74 **77-11a-302**, Utah Code Annotated 1953

75 **77-11a-303**, Utah Code Annotated 1953

76 **77-11a-304**, Utah Code Annotated 1953

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

78 **77-11a-503**, Utah Code Annotated 1953

79 **77-11b-101**, Utah Code Annotated 1953

80 **77-11b-104**, Utah Code Annotated 1953

81 RENUMBERS AND AMENDS:

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

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

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

- 88 **77-11a-202**, (Renumbered from 24-2-102.5, as enacted by Laws of Utah 2021, Chapter
89 230)
- 90 **77-11a-203**, (Renumbered from 24-2-103, as last amended by Laws of Utah 2021,
91 Chapter 230)
- 92 **77-11a-204**, (Renumbered from 24-2-104, as last amended by Laws of Utah 2022,
93 Chapters 120, 274)
- 94 **77-11a-205**, (Renumbered from 24-2-105, as last amended by Laws of Utah 2022,
95 Chapter 179)
- 96 **77-11a-401**, (Renumbered from 53-20-102, as enacted by Laws of Utah 2022, Chapter
97 120)
- 98 **77-11a-402**, (Renumbered from 53-20-103, as enacted by Laws of Utah 2022, Chapter
99 120)
- 100 **77-11a-403**, (Renumbered from 53-20-104, as enacted by Laws of Utah 2022, Chapter
101 120)
- 102 **77-11a-501**, (Renumbered from 24-2-107, as last amended by Laws of Utah 2022,
103 Chapters 120, 179)
- 104 **77-11a-504**, (Renumbered from 24-2-108, as last amended by Laws of Utah 2022,
105 Chapters 120, 179)
- 106 **77-11a-505**, (Renumbered from 24-3-104, as last amended by Laws of Utah 2021,
107 Chapter 230)
- 108 **77-11a-601**, (Renumbered from 24-3-101.5, as last amended by Laws of Utah 2022,
109 Chapters 120, 274)
- 110 **77-11a-602**, (Renumbered from 24-3-103, as last amended by Laws of Utah 2021,
111 Chapter 230)
- 112 **77-11a-603**, (Renumbered from 24-3-103.5, as enacted by Laws of Utah 2017, Chapter
113 334)
- 114 **77-11b-102**, (Renumbered from 24-4-102, as last amended by Laws of Utah 2022,
115 Chapters 116, 274)
- 116 **77-11b-103**, (Renumbered from 24-4-106, as enacted by Laws of Utah 2013, Chapter
117 394)
- 118 **77-11b-105**, (Renumbered from 24-4-119, as enacted by Laws of Utah 2021, Chapter

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

150 77-11c-102, (Renumbered from 77-24a-2, as last amended by Laws of Utah 2013,
151 Chapter 394)

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

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

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

158 REPEALS:

159 24-1-101, as enacted by Laws of Utah 2013, Chapter 394

160 24-2-101, as enacted by Laws of Utah 2013, Chapter 394

161 24-2-106, as last amended by Laws of Utah 2022, Chapter 120

162 24-3-101, as last amended by Laws of Utah 2021, Chapter 230

163 24-4-101, as last amended by Laws of Utah 2021, Chapter 230

164 53-20-101, as enacted by Laws of Utah 2022, Chapter 120

165

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

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

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

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

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

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

175 (c) the ticket number;

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

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

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

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

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

181 business;

182 (iii) the individual's signature; and

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

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

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

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

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

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

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

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

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

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

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

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

195 including:

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

197 color, manufacturers' names, and size;

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

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

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

201 (E) any other unique identifying feature; and

202 (F) gold content, if indicated; or

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

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

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

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

207 of the type of articles delivered.

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

209 is apparent that:

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

211 defaced, or obliterated;

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

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

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

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

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

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

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

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

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

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

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

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

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

243 and watches; or

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

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

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

248 (A) each item of jewelry; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

286 (a) states the active case number;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

394 (1) bail bond forfeiture actions;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

439 (i) the wildlife is protected wildlife; or

440 (ii) the division receives a court order allowing for the donation under Section
441 [77-11b-202](#).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 491 (1) As used in this section:
- 492 (a) "Cohabitant" means any individual 18 years old or older residing in the home who:
- 493 (i) is living as if a spouse of the owner cohabitant;
- 494 (ii) is related by blood or marriage to the owner cohabitant;
- 495 (iii) has one or more children in common with the owner cohabitant; or
- 496 (iv) has an interest in the safety and well-being of the owner cohabitant.
- 497 (b) "Owner cohabitant" means an individual:
- 498 (i) in relation to a cohabitant as described in Subsection (1)(a); and
- 499 (ii) who owns a firearm.
- 500 (2) (a) A cohabitant or owner cohabitant may voluntarily commit a firearm to a law
- 501 enforcement agency or request that a law enforcement officer receive a firearm for safekeeping
- 502 if the owner cohabitant or cohabitant believes that the owner cohabitant or another cohabitant
- 503 with access to the firearm is an immediate threat to:
- 504 (i) himself or herself;
- 505 (ii) the owner cohabitant; or
- 506 (iii) any other person.
- 507 (b) If the owner of a firearm requests return of the firearm in person at the law
- 508 enforcement agency's office, the law enforcement agency:
- 509 (i) may not hold the firearm under this section; and
- 510 (ii) shall return the firearm to the owner.
- 511 (3) Unless a firearm is an illegal firearm subject to Section [53-5c-202](#), a law
- 512 enforcement agency that receives a firearm in accordance with this chapter shall:
- 513 (a) record:
- 514 (i) the owner cohabitant's name, address, and phone number;
- 515 (ii) the firearm serial number and the make and model of each firearm committed; and
- 516 (iii) the date that the firearm was voluntarily committed;
- 517 (b) require the cohabitant to sign a document attesting that the cohabitant resides in the
- 518 home;
- 519 (c) hold the firearm in safe custody for 60 days after the day on which the firearm is
- 520 voluntarily committed; and
- 521 (d) upon proof of identification, return the firearm to:

522 (i) (A) the owner cohabitant after the expiration of the 60-day period; or
523 (B) if the owner cohabitant requests return of the firearm before the expiration of the
524 60-day period, at the time of the request; or

525 (ii) an owner other than the owner cohabitant in accordance with Section [53-5c-202](#).

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

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

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

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

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

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

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

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

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

544 Section 8. Section [53-5c-202](#) is amended to read:

545 **[53-5c-202. Illegal firearms confiscated -- Disposition of unclaimed firearm.](#)**

546 (1) If a law enforcement agency receives a firearm in accordance with Section
547 [53-5c-201](#), and the firearm is an illegal firearm, the law enforcement agency shall:

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

550 (b) confiscate the firearm and dispose of the firearm in accordance with Section
551 [~~24-3-103.5~~] [77-11a-603](#).

552 (2) (a) If a law enforcement agency cannot, after a reasonable attempt, locate an owner

553 cohabitant to return a firearm in accordance with Section 53-5c-201, the law enforcement
554 agency shall dispose of the firearm in accordance with Section ~~[24-3-103.5]~~ 77-11a-603.

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

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

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

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

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

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

566 (ii) the person provides identification; and

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

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

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

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

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

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

576 **58-37a-6. Seizure -- Forfeiture -- Property rights.**

577 Drug paraphernalia is subject to seizure and forfeiture in accordance with the
578 procedures and substantive protections of [~~Title 24, Forfeiture and Disposition of Property Act~~]
579 Title 77, Chapter 11a, Seizure and Retention of Property and Contraband, and Title 77, Chapter
580 11b, Forfeiture of Seized Property.

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

582 **58-37c-15. Civil forfeiture.**

583 The following shall be subject to forfeiture in accordance with the procedures and

584 substantive protections of [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77,
585 Chapter 11b, Forfeiture of Seized Property:

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

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

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

593 **58-37d-7. Seizure and forfeiture.**

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

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

600 **63A-16-1002. Criminal Justice Database.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

622 (e) Section [41-6a-511](#), courts to collect and maintain data;

623 (f) Section [63M-7-214](#), law enforcement agency grant reporting;

624 (g) Section [63M-7-216](#), prosecutorial data collection;

625 (h) Section [64-13-21](#), supervision of sentenced offenders placed in community;

626 (i) Section [64-13-25](#), standards for programs;

627 (j) Section [64-13-45](#), department reporting requirements;

628 (k) Section [64-13e-104](#), housing of state probationary inmates or state parole inmates;

629 (l) Section [77-7-8.5](#), use of tactical groups;

630 (m) Section [77-20-103](#), release data requirements;

631 (n) Section [77-22-2.5](#), court orders for criminal investigations;

632 (o) Section [78A-2-109.5](#), court demographics reporting; and

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

635 (6) The commission shall report:

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

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

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

643 **63I-1-263. Repeal dates: Titles 63A to 63N.**

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

- 646 (2) Section [63A-5b-1003](#), State Facility Energy Efficiency Fund, is repealed July 1,
647 2023.
- 648 (3) Sections [63A-9-301](#) and [63A-9-302](#), related to the Motor Vehicle Review
649 Committee, are repealed July 1, 2023.
- 650 (4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:
651 (a) Section [63A-18-102](#) is repealed;
652 (b) Section [63A-18-201](#) is repealed; and
653 (c) Section [63A-18-202](#) is repealed.
- 654 (5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
655 1, 2028.
- 656 (6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
657 2025.
- 658 (7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,
659 2024.
- 660 (8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
661 repealed July 1, 2023.
- 662 (9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed
663 July 1, 2023.
- 664 (10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is
665 repealed July 1, 2026.
- 666 (11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.
- 667 (12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.
- 668 (13) Section [63G-6a-805](#), which creates the Purchasing from Persons with Disabilities
669 Advisory Board, is repealed July 1, 2026.
- 670 (14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
671 2028.
- 672 (15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
673 2024.
- 674 (16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.
- 675 (17) Subsection [~~[63J-1-602.1\(17\)](#)~~] [63J-1-602.1\(16\)](#), relating to the Nurse Home
676 Visiting Restricted Account, is repealed July 1, 2026.

677 (18) Subsection 63J-1-602.2(6), referring to dedicated credits to the Utah Marriage
678 Commission, is repealed July 1, 2023.

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

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

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

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

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

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

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

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

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

694 "(2) The commission shall:

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

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

699 (23) The Crime Victim Reparations and Assistance Board, created in Section
700 63M-7-504, is repealed July 1, 2027.

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

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

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

705 (27) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July
706 1, 2028.

707 (28) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed

708 July 1, 2027.

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

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

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

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

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

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

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

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

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

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

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

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

728 **63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**

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

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

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

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

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

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

- 739 (6) Money received by the Utah Inland Port Authority, as provided in Section
740 [11-58-105](#).
- 741 (7) The "Latino Community Support Restricted Account" created in Section [13-1-16](#).
- 742 (8) The Clean Air Support Restricted Account created in Section [19-1-109](#).
- 743 (9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in
744 Section [19-2a-106](#).
- 745 (10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in
746 Section [19-5-126](#).
- 747 (11) The "Support for State-Owned Shooting Ranges Restricted Account" created in
748 Section [23-14-13.5](#).
- 749 [~~(12) Award money under the State Asset Forfeiture Grant Program, as provided under~~
750 ~~Section [24-4-117](#);~~
- 751 [~~(13)~~] (12) Funds collected from the program fund for local health department
752 expenses incurred in responding to a local health emergency under Section [26-1-38](#).
- 753 [~~(14)~~] (13) The Children with Cancer Support Restricted Account created in Section
754 [26-21a-304](#).
- 755 [~~(15)~~] (14) State funds for matching federal funds in the Children's Health Insurance
756 Program as provided in Section [26-40-108](#).
- 757 [~~(16)~~] (15) The Children with Heart Disease Support Restricted Account created in
758 Section [26-58-102](#).
- 759 [~~(17)~~] (16) The Technology Development Restricted Account created in Section
760 [31A-3-104](#).
- 761 [~~(18)~~] (17) The Criminal Background Check Restricted Account created in Section
762 [31A-3-105](#).
- 763 [~~(19)~~] (18) The Captive Insurance Restricted Account created in Section [31A-3-304](#),
764 except to the extent that Section [31A-3-304](#) makes the money received under that section free
765 revenue.
- 766 [~~(20)~~] (19) The Title Licensee Enforcement Restricted Account created in Section
767 [31A-23a-415](#).
- 768 [~~(21)~~] (20) The Health Insurance Actuarial Review Restricted Account created in
769 Section [31A-30-115](#).

770 [~~(22)~~] (21) The Insurance Fraud Investigation Restricted Account created in Section
771 31A-31-108.

772 [~~(23)~~] (22) The Underage Drinking Prevention Media and Education Campaign
773 Restricted Account created in Section 32B-2-306.

774 [~~(24)~~] (23) The Drinking While Pregnant Prevention Media and Education Campaign
775 Restricted Account created in Section 32B-2-308.

776 [~~(25)~~] (24) The School Readiness Restricted Account created in Section 35A-15-203.

777 [~~(26)~~] (25) Money received by the Utah State Office of Rehabilitation for the sale of
778 certain products or services, as provided in Section 35A-13-202.

779 [~~(27)~~] (26) The Oil and Gas Administrative Penalties Account created in Section
780 40-6-11.

781 [~~(28)~~] (27) The Oil and Gas Conservation Account created in Section 40-6-14.5.

782 [~~(29)~~] (28) The Division of Oil, Gas, and Mining Restricted account created in Section
783 40-6-23.

784 [~~(30)~~] (29) The Electronic Payment Fee Restricted Account created by Section
785 41-1a-121 to the Motor Vehicle Division.

786 [~~(31)~~] (30) The Motor Vehicle Enforcement Division Temporary Permit Restricted
787 Account created by Section 41-3-110 to the State Tax Commission.

788 [~~(32)~~] (31) The Utah Law Enforcement Memorial Support Restricted Account created
789 in Section 53-1-120.

790 [~~(33)~~] (32) The State Disaster Recovery Restricted Account to the Division of
791 Emergency Management, as provided in Section 53-2a-603.

792 [~~(34)~~] (33) The Post Disaster Recovery and Mitigation Restricted Account created in
793 Section 53-2a-1302.

794 [~~(35)~~] (34) The Department of Public Safety Restricted Account to the Department of
795 Public Safety, as provided in Section 53-3-106.

796 [~~(36)~~] (35) The Utah Highway Patrol Aero Bureau Restricted Account created in
797 Section 53-8-303.

798 [~~(37)~~] (36) The DNA Specimen Restricted Account created in Section 53-10-407.

799 [~~(38)~~] (37) The Canine Body Armor Restricted Account created in Section 53-16-201.

800 [~~(39)~~] (38) The Technical Colleges Capital Projects Fund created in Section

801 [53B-2a-118](#).

802 ~~[(40)]~~ [\(39\)](#) The Higher Education Capital Projects Fund created in Section

803 [53B-22-202](#).

804 ~~[(41)]~~ [\(40\)](#) A certain portion of money collected for administrative costs under the

805 School Institutional Trust Lands Management Act, as provided under Section [53C-3-202](#).

806 ~~[(42)]~~ [\(41\)](#) The Public Utility Regulatory Restricted Account created in Section

807 [54-5-1.5](#), subject to Subsection [54-5-1.5\(4\)\(d\)](#).

808 ~~[(43)]~~ [\(42\)](#) Funds collected from a surcharge fee to provide certain licensees with

809 access to an electronic reference library, as provided in Section [58-3a-105](#).

810 ~~[(44)]~~ [\(43\)](#) Certain fines collected by the Division of Professional Licensing for

811 violation of unlawful or unprofessional conduct that are used for education and enforcement

812 purposes, as provided in Section [58-17b-505](#).

813 ~~[(45)]~~ [\(44\)](#) Funds collected from a surcharge fee to provide certain licensees with

814 access to an electronic reference library, as provided in Section [58-22-104](#).

815 ~~[(46)]~~ [\(45\)](#) Funds collected from a surcharge fee to provide certain licensees with

816 access to an electronic reference library, as provided in Section [58-55-106](#).

817 ~~[(47)]~~ [\(46\)](#) Funds collected from a surcharge fee to provide certain licensees with

818 access to an electronic reference library, as provided in Section [58-56-3.5](#).

819 ~~[(48)]~~ [\(47\)](#) Certain fines collected by the Division of Professional Licensing for use in

820 education and enforcement of the Security Personnel Licensing Act, as provided in Section

821 [58-63-103](#).

822 ~~[(49)]~~ [\(48\)](#) The Relative Value Study Restricted Account created in Section [59-9-105](#).

823 ~~[(50)]~~ [\(49\)](#) The Cigarette Tax Restricted Account created in Section [59-14-204](#).

824 ~~[(51)]~~ [\(50\)](#) Funds paid to the Division of Real Estate for the cost of a criminal

825 background check for a mortgage loan license, as provided in Section [61-2c-202](#).

826 ~~[(52)]~~ [\(51\)](#) Funds paid to the Division of Real Estate for the cost of a criminal

827 background check for principal broker, associate broker, and sales agent licenses, as provided

828 in Section [61-2f-204](#).

829 ~~[(53)]~~ [\(52\)](#) Certain funds donated to the Department of Health and Human Services, as

830 provided in Section [26B-1-202](#).

831 ~~[(54)]~~ [\(53\)](#) The National Professional Men's Basketball Team Support of Women and

832 Children Issues Restricted Account created in Section [26B-1-302](#).
833 ~~[(55)]~~ [\(54\)](#) Certain funds donated to the Division of Child and Family Services, as
834 provided in Section [80-2-404](#).
835 ~~[(56)]~~ [\(55\)](#) The Choose Life Adoption Support Restricted Account created in Section
836 [80-2-502](#).
837 ~~[(57)]~~ [\(56\)](#) Funds collected by the Office of Administrative Rules for publishing, as
838 provided in Section [63G-3-402](#).
839 ~~[(58)]~~ [\(57\)](#) The Immigration Act Restricted Account created in Section [63G-12-103](#).
840 ~~[(59)]~~ [\(58\)](#) Money received by the military installation development authority, as
841 provided in Section [63H-1-504](#).
842 ~~[(60)]~~ [\(59\)](#) The Computer Aided Dispatch Restricted Account created in Section
843 [63H-7a-303](#).
844 ~~[(61)]~~ [\(60\)](#) The Unified Statewide 911 Emergency Service Account created in Section
845 [63H-7a-304](#).
846 ~~[(62)]~~ [\(61\)](#) The Utah Statewide Radio System Restricted Account created in Section
847 [63H-7a-403](#).
848 ~~[(63)]~~ [\(62\)](#) The Utah Capital Investment Restricted Account created in Section
849 [63N-6-204](#).
850 ~~[(64)]~~ [\(63\)](#) The Motion Picture Incentive Account created in Section [63N-8-103](#).
851 ~~[(65)]~~ [\(64\)](#) Certain money payable for expenses of the Pete Suazo Utah Athletic
852 Commission, as provided under Section [63N-10-301](#).
853 ~~[(66)]~~ [\(65\)](#) Funds collected by the housing of state probationary inmates or state parole
854 inmates, as provided in Subsection [64-13e-104\(2\)](#).
855 ~~[(67)]~~ [\(66\)](#) Certain forestry and fire control funds utilized by the Division of Forestry,
856 Fire, and State Lands, as provided in Section [65A-8-103](#).
857 ~~[(68)]~~ [\(67\)](#) The Amusement Ride Safety Restricted Account, as provided in Section
858 [72-16-204](#).
859 ~~[(69)]~~ [\(68\)](#) Certain funds received by the Office of the State Engineer for well drilling
860 fines or bonds, as provided in Section [73-3-25](#).
861 ~~[(70)]~~ [\(69\)](#) The Water Resources Conservation and Development Fund, as provided in
862 Section [73-23-2](#).

863 (70) Award money under the State Asset Forfeiture Grant Program, as provided under
864 Section 77-11b-403.

865 (71) Funds donated or paid to a juvenile court by private sources, as provided in
866 Subsection 78A-6-203(1)(c).

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

868 (73) Funds collected for adoption document access as provided in Sections 78B-6-141,
869 78B-6-144, and 78B-6-144.5.

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

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

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

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

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

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

882 **76-5-109.3. Child abandonment.**

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

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

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

886 (iii) "Serious physical injury" means the same as that term is defined in Section
887 76-5-109.

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

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

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

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

893 (B) intentionally fails to make reasonable arrangements for the safety, care, and

894 physical custody of the child; and

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

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

897 (III) for a period of at least 30 days, intentionally fails to resume physical custody of

898 the child and fails to manifest a genuine intent to resume physical custody of the child; or

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

900 (2)(a)(i).

901 (b) Except as provided in Subsection (4), an enterprise commits child abandonment if

902 the enterprise encourages, commands, or causes another to violate Subsection (2)(a).

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

904 (ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2) is a second

905 degree felony if, as a result of the child abandonment:

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

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

908 (b) (i) In addition to the penalty described in Subsection (3)(a)(ii), the court may order

909 the actor or enterprise described in Subsection (3)(a)(ii)(B) to pay the costs of investigating and

910 prosecuting the offense and the costs of securing any forfeiture provided for under Subsection

911 (3)(b)(ii).

912 (ii) Any tangible or pecuniary benefit received under Subsection (3)(a)(ii)(B) is subject

913 to criminal or civil forfeiture pursuant to [~~Title 24, Forfeiture and Disposition of Property Act~~]

914 Title 77, Chapter 11b, Forfeiture of Seized Property.

915 (4) (a) A parent or legal guardian who provides a child with treatment by spiritual

916 means alone through prayer, in lieu of medical treatment, in accordance with the tenets and

917 practices of an established church or religious denomination of which the parent or legal

918 guardian is a member or adherent may not, for that reason alone, be considered to have

919 committed an offense under this section.

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

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

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

923 (A) in a legal adoption proceeding; or

924 (B) in a case in which a petition for the termination of parental rights, or the

925 termination of a guardianship, has been filed;

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

927 or

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

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

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

932 (1) As used in this section:

933 (a) "Law enforcement officer" means the same as that term is defined in Section
934 [53-13-103](#).

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

937 (i) cattle;

938 (ii) sheep;

939 (iii) goats;

940 (iv) swine;

941 (v) horses;

942 (vi) mules;

943 (vii) poultry;

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

945 (ix) livestock guardian dogs.

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

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

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

951 (b) does so:

952 (i) intentionally or knowingly; and

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

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

956 alleged violation of Subsection (2).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

984 (A) a search warrant; or

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

986 (ii) the material, device, or vehicle has been the subject of a prior judgment in favor of

987 the state in a criminal injunction or forfeiture proceeding under this section; or

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

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

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

994 (i) place the property under seal;

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

996 or

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

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

1000 **76-6-501. Forgery and producing false identification -- Elements of offense --**

1001 **Definitions.**

1002 (1) As used in this part:

1003 (a) "Authentication feature" means any hologram, watermark, certification, symbol,
1004 code, image, sequence of numbers or letters, or other feature that either individually or in
1005 combination with another feature is used by the issuing authority on an identification
1006 document, document-making implement, or means of identification to determine if the
1007 document is counterfeit, altered, or otherwise falsified.

1008 (b) "Document-making implement" means any implement, impression, template,
1009 computer file, computer disc, electronic device, computer hardware or software, or scanning
1010 printing, or laminating equipment that is specifically configured or primarily used for making
1011 an identification document, a false identification document, or another document-making
1012 implement.

1013 (c) "False authentication feature" means an authentication feature that:

1014 (i) is genuine in origin but that, without the authorization of the issuing authority, has
1015 been tampered with or altered for purposes of deceit;

1016 (ii) is genuine, but has been distributed, or is intended for distribution, without the
1017 authorization of the issuing authority and not in connection with a lawfully made identification

1018 document, document-making implement, or means of identification to which the authentication
1019 feature is intended to be affixed or embedded by the issuing authority; or

1020 (iii) appears to be genuine, but is not.

1021 (d) "False identification document" means a document of a type intended or commonly
1022 accepted for the purposes of identification of individuals, and that:

1023 (i) is not issued by or under the authority of a governmental entity or was issued under
1024 the authority of a governmental entity but was subsequently altered for purposes of deceit; and

1025 (ii) appears to be issued by or under the authority of a governmental entity.

1026 (e) "Governmental entity" means the United States government, a state, a political
1027 subdivision of a state, a foreign government, a political subdivision of a foreign government, an
1028 international governmental organization, or a quasi-governmental organization.

1029 (f) "Identification document" means a document made or issued by or under the
1030 authority of a governmental entity, which, when completed with information concerning a
1031 particular individual, is of a type intended or commonly accepted for the purpose of
1032 identification of individuals.

1033 (g) "Issuing authority" means:

1034 (i) any governmental entity that is authorized to issue identification documents, means
1035 of identification, or authentication features; or

1036 (ii) a business organization or financial institution or its agent that issues a financial
1037 transaction card as defined in Section [76-6-506](#).

1038 (h) "Means of identification" means any name or number that may be used, alone or in
1039 conjunction with any other information, to identify a specific individual, including:

1040 (i) name, social security number, date of birth, government issued driver license or
1041 identification number, alien registration number, government passport number, or employer or
1042 taxpayer identification number;

1043 (ii) unique biometric data, such as fingerprint, voice print, retina or iris image, or other
1044 unique physical representation; or

1045 (iii) unique electronic identification number, address, or routing code.

1046 (i) "Personal identification card" means an identification document issued by a
1047 governmental entity solely for the purpose of identification of an individual.

1048 (j) "Produce" includes altering, authenticating, or assembling.

1049 (k) "State" includes any state of the United States, the District of Columbia, the
1050 Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the
1051 United States.

1052 (l) "Traffic" means to:

1053 (i) transport, transfer, or otherwise dispose of an item to another, as consideration for
1054 anything of value; or

1055 (ii) make or obtain control of with intent to transport, transfer, or otherwise dispose of
1056 an item to another.

1057 (m) "Writing" includes printing, electronic storage or transmission, or any other
1058 method of recording valuable information including forms such as:

1059 (i) checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and any
1060 other symbols of value, right, privilege, or identification;

1061 (ii) a security, revenue stamp, or any other instrument or writing issued by a
1062 government or any agency; or

1063 (iii) a check, an issue of stocks, bonds, or any other instrument or writing representing
1064 an interest in or claim against property, or a pecuniary interest in or claim against any person or
1065 enterprise.

1066 (2) A person is guilty of forgery if, with purpose to defraud anyone, or with knowledge
1067 that the person is facilitating a fraud to be perpetrated by anyone, the person:

1068 (a) alters any writing of another without his authority or utters the altered writing; or

1069 (b) makes, completes, executes, authenticates, issues, transfers, publishes, or utters any
1070 writing so that the writing or the making, completion, execution, authentication, issuance,
1071 transference, publication, or utterance:

1072 (i) purports to be the act of another, whether the person is existent or nonexistent;

1073 (ii) purports to be an act on behalf of another party with the authority of that other
1074 party; or

1075 (iii) purports to have been executed at a time or place or in a numbered sequence other
1076 than was in fact the case, or to be a copy of an original when an original did not exist.

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

1080 actor purports to act.

1081 (4) A person is guilty of producing or transferring any false identification document
1082 who:

1083 (a) knowingly and without lawful authority produces, attempts, or conspires to produce
1084 an identification document, authentication feature, or a false identification document that is or
1085 appears to be issued by or under the authority of an issuing authority;

1086 (b) transfers, or possesses with intent to transfer, an identification document,
1087 authentication feature, or a false identification document knowing that the document or feature
1088 was stolen or produced without lawful authority;

1089 (c) produces, transfers, or possesses a document-making implement or authentication
1090 feature with the intent that the document-making implement or the authentication feature be
1091 used in the production of a false identification document or another document-making
1092 implement or authentication feature; or

1093 (d) traffics in false or actual authentication features for use in false identification
1094 documents, document-making implements, or means of identification.

1095 (5) A person who violates:

1096 (a) Subsection (2) is guilty of a third degree felony; and

1097 (b) Subsection (4) is guilty of a second degree felony.

1098 (6) This part may not be construed to impose criminal or civil liability on any law
1099 enforcement officer acting within the scope of a criminal investigation.

1100 (7) The forfeiture of property under this part, including any seizure and disposition of
1101 the property and any related judicial or administrative proceeding, shall be conducted in
1102 accordance with [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77, Chapter 11b,
1103 Forfeiture of Seized Property.

1104 (8) The court shall order, in addition to the penalty prescribed for any person convicted
1105 of a violation of this section, the forfeiture and destruction or other disposition of all illicit
1106 authentication features, identification documents, false transaction cards, document-making
1107 implements, or means of identification.

1108 Section 18. Section **76-6-1303** is amended to read:

1109 **76-6-1303. Possession, sale, or use of automated sales suppression device unlawful**
1110 **-- Penalties.**

1111 (1) It is a third degree felony to willfully or knowingly sell, purchase, install, transfer,
1112 use, or possess in this state any automated sales suppression device or phantomware with the
1113 intent to defraud, except that any second or subsequent violation of this Subsection (1) is a
1114 second degree felony.

1115 (2) Notwithstanding Section 76-3-301, any person convicted of violating Subsection
1116 (1) may be fined not more than twice the amount of the applicable taxes that would otherwise
1117 be due, but for the use of the automated sales suppression device or phantomware.

1118 (3) Any person convicted of a violation of Subsection (1):

1119 (a) is liable for all applicable taxes, penalties under Section 59-1-401, and interest
1120 under Section 59-1-402 that would otherwise be due, but for the use of the automated sales
1121 suppression device or phantomware to evade the payment of taxes; and

1122 (b) shall disgorge all profits associated with the sale or use of an automated sales
1123 suppression device or phantomware.

1124 (4) An automated sales suppression device and any device containing an automated
1125 sales suppression device is contraband and subject to forfeiture under [~~Title 24, Forfeiture and~~
1126 ~~Disposition of Property Act~~] Title 77, Chapter 11b, Forfeiture of Seized Property.

1127 Section 19. Section 76-10-503 is amended to read:

1128 **76-10-503. Restrictions on possession, purchase, transfer, and ownership of**
1129 **dangerous weapons by certain persons -- Exceptions.**

1130 (1) For purposes of this section:

1131 (a) A Category I restricted person is a person who:

1132 (i) has been convicted of any violent felony as defined in Section 76-3-203.5;

1133 (ii) is on probation or parole for any felony;

1134 (iii) is on parole from secure care, as defined in Section 80-1-102;

1135 (iv) within the last 10 years has been adjudicated under Section 80-6-701 for an offense
1136 which if committed by an adult would have been a violent felony as defined in Section
1137 76-3-203.5;

1138 (v) is an alien who is illegally or unlawfully in the United States; or

1139 (vi) is on probation for a conviction of possessing:

1140 (A) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;

1141 (B) a controlled substance analog; or

- 1142 (C) a substance listed in Section 58-37-4.2.
- 1143 (b) A Category II restricted person is a person who:
- 1144 (i) has been convicted of any felony;
- 1145 (ii) within the last seven years has been adjudicated delinquent for an offense which if
- 1146 committed by an adult would have been a felony;
- 1147 (iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;
- 1148 (iv) is in possession of a dangerous weapon and is knowingly and intentionally in
- 1149 unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;
- 1150 (v) has been found not guilty by reason of insanity for a felony offense;
- 1151 (vi) has been found mentally incompetent to stand trial for a felony offense;
- 1152 (vii) has been adjudicated as mentally defective as provided in the Brady Handgun
- 1153 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed
- 1154 to a mental institution;
- 1155 (viii) has been dishonorably discharged from the armed forces;
- 1156 (ix) has renounced the individual's citizenship after having been a citizen of the United
- 1157 States;
- 1158 (x) is a respondent or defendant subject to a protective order or child protective order
- 1159 that is issued after a hearing for which the respondent or defendant received actual notice and at
- 1160 which the respondent or defendant has an opportunity to participate, that restrains the
- 1161 respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that
- 1162 would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate
- 1163 partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate
- 1164 partner, and that:
- 1165 (A) includes a finding that the respondent or defendant represents a credible threat to
- 1166 the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C.
- 1167 Sec. 921 or the child of the individual; or
- 1168 (B) explicitly prohibits the use, attempted use, or threatened use of physical force that
- 1169 would reasonably be expected to cause bodily harm against an intimate partner or the child of
- 1170 an intimate partner; or
- 1171 (xi) has been convicted of the commission or attempted commission of assault under
- 1172 Section 76-5-102 or aggravated assault under Section 76-5-103 against a current or former

1173 spouse, parent, guardian, individual with whom the restricted person shares a child in common,
1174 individual who is cohabitating or has cohabitated with the restricted person as a spouse, parent,
1175 or guardian, or against an individual similarly situated to a spouse, parent, or guardian of the
1176 restricted person.

1177 (c) As used in this section, a conviction of a felony or adjudication of delinquency for
1178 an offense which would be a felony if committed by an adult does not include:

1179 (i) a conviction or an adjudication under Section 80-6-701 for an offense pertaining to
1180 antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to
1181 the regulation of business practices not involving theft or fraud; or

1182 (ii) a conviction or an adjudication under Section 80-6-701 which, according to the law
1183 of the jurisdiction in which it occurred, has been expunged, set aside, reduced to a
1184 misdemeanor by court order, pardoned or regarding which the person's civil rights have been
1185 restored unless the pardon, reduction, expungement, or restoration of civil rights expressly
1186 provides that the person may not ship, transport, possess, or receive firearms.

1187 (d) It is the burden of the defendant in a criminal case to provide evidence that a
1188 conviction or an adjudication under Section 80-6-701 is subject to an exception provided in
1189 Subsection (1)(c), after which it is the burden of the state to prove beyond a reasonable doubt
1190 that the conviction or the adjudication is not subject to that exception.

1191 (2) A Category I restricted person who intentionally or knowingly agrees, consents,
1192 offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or
1193 control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under
1194 the person's custody or control:

1195 (a) any firearm is guilty of a second degree felony; or

1196 (b) any dangerous weapon other than a firearm is guilty of a third degree felony.

1197 (3) A Category II restricted person who intentionally or knowingly purchases, transfers,
1198 possesses, uses, or has under the person's custody or control:

1199 (a) any firearm is guilty of a third degree felony; or

1200 (b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

1201 (4) A person may be subject to the restrictions of both categories at the same time.

1202 (5) If a higher penalty than is prescribed in this section is provided in another section
1203 for one who purchases, transfers, possesses, uses, or has under this custody or control any

1204 dangerous weapon, the penalties of that section control.

1205 (6) It is an affirmative defense to a charge based on the definition in Subsection

1206 (1)(b)(iv) that the person was:

1207 (a) in possession of a controlled substance pursuant to a lawful order of a practitioner
1208 for use of a member of the person's household or for administration to an animal owned by the
1209 person or a member of the person's household; or

1210 (b) otherwise authorized by law to possess the substance.

1211 (7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon
1212 by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

1213 (i) was possessed by the person or was under the person's custody or control before the
1214 person became a restricted person;

1215 (ii) was not used in or possessed during the commission of a crime or subject to
1216 disposition under [~~Section 24-3-103~~] Title 77, Chapter 11a, Part 6, Disposal of Seized Property
1217 and Contraband;

1218 (iii) is not being held as evidence by a court or law enforcement agency;

1219 (iv) was transferred to a person not legally prohibited from possessing the weapon; and

1220 (v) unless a different time is ordered by the court, was transferred within 10 days of the
1221 person becoming a restricted person.

1222 (b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person
1223 of a firearm or other dangerous weapon by a restricted person.

1224 (8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or
1225 dangerous weapon to any person, knowing that the recipient is a person described in
1226 Subsection (1)(a) or (b).

1227 (b) A person who violates Subsection (8)(a) when the recipient is:

1228 (i) a person described in Subsection (1)(a) and the transaction involves a firearm, is
1229 guilty of a second degree felony;

1230 (ii) a person described in Subsection (1)(a) and the transaction involves any dangerous
1231 weapon other than a firearm, and the transferor has knowledge that the recipient intends to use
1232 the weapon for any unlawful purpose, is guilty of a third degree felony;

1233 (iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is
1234 guilty of a third degree felony; or

1235 (iv) a person described in Subsection (1)(b) and the transaction involves any dangerous
1236 weapon other than a firearm, and the transferor has knowledge that the recipient intends to use
1237 the weapon for any unlawful purpose, is guilty of a class A misdemeanor.

1238 (9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or
1239 other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under
1240 circumstances which the person knows would be a violation of the law.

1241 (b) A person may not provide to a dealer or other person any information that the
1242 person knows to be materially false information with intent to deceive the dealer or other
1243 person about the legality of a sale, transfer or other disposition of a firearm or dangerous
1244 weapon.

1245 (c) "Materially false information" means information that portrays an illegal transaction
1246 as legal or a legal transaction as illegal.

1247 (d) A person who violates this Subsection (9) is guilty of:

1248 (i) a third degree felony if the transaction involved a firearm; or

1249 (ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a
1250 firearm.

1251 Section 20. Section **76-10-1108** is amended to read:

1252 **76-10-1108. Seizure and disposition of gambling debts or proceeds.**

1253 Any gambling bets or gambling proceeds which are reasonably identifiable as having
1254 been used or obtained in violation of this part may be seized and are subject to forfeiture
1255 proceedings in accordance with [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77,
1256 Chapter 11b, Forfeiture of Seized Property.

1257 Section 21. Section **76-10-1112** is amended to read:

1258 **76-10-1112. Local control.**

1259 (1) Nothing in this part preempts or otherwise limits the authority of a county or
1260 municipality to enact a local ordinance related to gambling or fringe gambling.

1261 (2) In accordance with [~~Title 24, Forfeiture and Disposition of Property Act~~] Title 77,
1262 Chapter 11a, Seizure and Retention of Property and Contraband, a county or municipality may
1263 seize gambling debts, gambling proceeds, or fringe gaming devices that are reasonably
1264 identifiable as being obtained or provided in violation of this part or a local ordinance.

1265 Section 22. Section **77-11a-101**, which is renumbered from Section 24-1-102 is

1266 renumbered and amended to read:

1267 **CHAPTER 11a. SEIZURE AND RETENTION OF PROPERTY AND CONTRABAND**

1268 **Part 1. General Provisions**

1269 ~~[24-1-102].~~ 77-11a-101. Definitions.

1270 As used in this [title] chapter:

1271 ~~[(1) "Account" means the Criminal Forfeiture Restricted Account created in Section~~
1272 ~~24-4-116.]~~

1273 ~~[(2) (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not~~
1274 ~~guilty.]~~

1275 ~~[(b) "Acquitted" does not include:]~~

1276 ~~[(i) a verdict of guilty on a lesser or reduced charge;]~~

1277 ~~[(ii) a plea of guilty to a lesser or reduced charge; or]~~

1278 ~~[(iii) dismissal of a charge as a result of a negotiated plea agreement.]~~

1279 ~~[(3)]~~ (1) (a) "Agency" means an agency of this state or a political subdivision of this
1280 state.

1281 (b) "Agency" includes a law enforcement agency or a multijurisdictional task force.

1282 (2) (a) "Biological evidence" means an item that contains blood, semen, hair, saliva,
1283 epithelial cells, latent fingerprint evidence that may contain biological material suitable for
1284 DNA testing, or other identifiable human biological material that:

1285 (i) is collected as part of an investigation or prosecution of an offense; and

1286 (ii) may reasonably be used to incriminate or exculpate a person for the offense.

1287 (b) "Biological evidence" includes:

1288 (i) material that is catalogued separately, including:

1289 (A) on a slide or swab; or

1290 (B) inside a test tube, if the evidentiary sample that previously was inside the test tube
1291 has been consumed by testing;

1292 (ii) material that is present on other evidence, including clothing, a ligature, bedding, a
1293 drinking cup, a cigarette, or a weapon, from which a DNA profile may be obtained;

1294 (iii) the contents of a sexual assault examination kit; and

1295 (iv) for a violent felony offense, material described in this Subsection (2) that is in the
1296 custody of an evidence collecting or retaining entity on May 4, 2022.

- 1297 ~~[(4)]~~ (3) "Claimant" means:
- 1298 (a) an owner of property ~~[as defined in this section];~~
- 1299 (b) an interest holder ~~[as defined in this section];~~ or
- 1300 (c) an individual or entity who asserts a claim to any property ~~[seized for forfeiture~~
- 1301 ~~under this title]~~ for which an agency seeks to forfeit.
- 1302 ~~[(5)]~~ "Commission" means the State Commission on Criminal and Juvenile Justice
- 1303 ~~created in Section 63M-7-201.;~~
- 1304 ~~[(6)]~~ "Complaint" means a civil or criminal complaint seeking the forfeiture of any real
- 1305 ~~or personal property under this title.]~~
- 1306 ~~[(7)]~~ (4) (a) "Computer" means an electronic, magnetic, optical, electrochemical, or
- 1307 other high-speed data processing device that performs logical, arithmetic, and storage
- 1308 functions.
- 1309 (b) "Computer" includes any device that is used for the storage of digital or electronic
- 1310 files, flash memory, software, or other electronic information.
- 1311 (c) "Computer" does not mean a computer server of an Internet or electronic service
- 1312 provider, or the service provider's employee, if used to comply with the requirements under 18
- 1313 U.S.C. Sec. 2258A.
- 1314 ~~[(8)]~~ "Constructive seizure" means a seizure of property where the property is left in the
- 1315 ~~control of the owner and an agency posts the property with a notice of intent to seek forfeiture.]~~
- 1316 (5) "Continuous chain of custody" means:
- 1317 (a) for a law enforcement agency or a court, that legal standards regarding a continuous
- 1318 chain of custody are maintained; and
- 1319 (b) for an entity that is not a law enforcement agency or a court, that the entity
- 1320 maintains a record in accordance with legal standards required of the entity.
- 1321 ~~[(9)]~~ (6) (a) "Contraband" means any property, item, or substance that is unlawful to
- 1322 produce or to possess under state or federal law.
- 1323 (b) "Contraband" includes:
- 1324 (i) a controlled substance that is possessed, transferred, distributed, or offered for
- 1325 distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act; ~~[or]~~
- 1326 (ii) a computer that:
- 1327 (A) contains or houses child pornography, or is used to create, download, transfer,

1328 upload to a storage account, or store any electronic or digital files containing child
1329 pornography; or
1330 (B) contains the personal identifying information of another individual, as defined in
1331 Subsection [76-6-1102\(1\)](#), whether that individual is alive or deceased, and the personal
1332 identifying information has been used to create false or fraudulent identification documents or
1333 financial transaction cards in violation of Title 76, Chapter 6, Part 5, Fraud[-]; or
1334 (iii) protected wildlife illegally taken or held.
1335 (7) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).
1336 (8) "Court" means a municipal, county, or state court.
1337 (9) "DNA" means deoxyribonucleic acid.
1338 (10) "DNA profile" means a unique identifier of an individual derived from DNA.
1339 (11) "Drug paraphernalia" means the same as that term is defined in Section [58-37a-3](#).
1340 (12) "Evidence" means property, contraband, or an item or substance that:
1341 (a) is seized or collected as part of an investigation or prosecution of an offense; and
1342 (b) may reasonably be used to incriminate or exculpate an individual for an offense.
1343 (13) (a) "Evidence collecting or retaining entity" means an entity within the state that
1344 collects, stores, or retrieves biological evidence.
1345 (b) "Evidence collecting or retaining entity" includes:
1346 (i) a medical or forensic entity;
1347 (ii) a law enforcement agency;
1348 (iii) a court; and
1349 (iv) an official, employee, or agent of an entity or agency described in this Subsection
1350 (13).
1351 (14) "Exhibit" means property or contraband that is admitted into evidence for a court
1352 proceeding.
1353 ~~[(10)]~~ (15) "Forfeit" means to divest a claimant of an ownership interest in property
1354 seized ~~[under this title]~~ by a peace officer or agency.
1355 (16) "In custody" means an individual who:
1356 (a) is incarcerated, civilly committed, on parole, or on probation; or
1357 (b) is required to register under Title 77, Chapter 41, Sex and Kidnap Offender
1358 Registry.

1359 [(H)] (17) "Innocent owner" means a claimant who:

1360 (a) held an ownership interest in property at the time of the commission of an offense
1361 subjecting the property to [~~forfeiture under this title~~] seizure, and:

1362 (i) did not have actual knowledge of the offense subjecting the property to [~~forfeiture~~]
1363 seizure; or

1364 (ii) upon learning of the commission of the offense, took reasonable steps to prohibit
1365 the use of the property in the commission of the offense; or

1366 (b) acquired an ownership interest in the property and had no knowledge that the
1367 commission of the offense subjecting the property to [~~forfeiture under this title~~] seizure had
1368 occurred or that the property had been seized [~~for forfeiture~~], and:

1369 (i) acquired the property in a bona fide transaction for value;

1370 (ii) was an individual, including a minor child, who acquired an interest in the property
1371 through probate or inheritance; or

1372 (iii) was a spouse who acquired an interest in property through dissolution of marriage
1373 or by operation of law.

1374 [(H2)] (18) (a) "Interest holder" means a secured party as defined in Section
1375 70A-9a-102, a party with a right-of-offset, a mortgagee, lien creditor, or the beneficiary of a
1376 security interest or encumbrance pertaining to an interest in property, whose interest would be
1377 perfected against a good faith purchaser for value.

1378 (b) "Interest holder" does not mean a person:

1379 (i) who holds property for the benefit of or as an agent or nominee for another person;
1380 or

1381 (ii) who is not in substantial compliance with any statute requiring an interest in
1382 property to be:

1383 (A) recorded or reflected in public records in order to perfect the interest against a good
1384 faith purchaser for value; or

1385 (B) held in control by a secured party, as defined in Section 70A-9a-102, in accordance
1386 with Section 70A-9a-314 in order to perfect the interest against a good faith purchaser for
1387 value.

1388 (19) "Law enforcement agency" means:

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

1390 department;

1391 (b) a sheriff's office; or

1392 (c) a municipal, county, or state prosecuting authority.

1393 [~~(13)~~] ~~"Known address" means any address provided by a claimant to the peace officer~~
1394 ~~or agency at the time the property is seized, or the claimant's most recent address on record~~
1395 ~~with a governmental entity if no address was provided at the time of the seizure.]~~

1396 [~~(14)~~] ~~"Legal costs" means the costs and expenses incurred by a party in a forfeiture~~
1397 ~~action.]~~

1398 [~~(15)~~] (20) "Legislative body" means:

1399 (a) (i) the Legislature, county commission, county council, city commission, city
1400 council, or town council that has fiscal oversight and budgetary approval authority over an
1401 agency; or

1402 (ii) the agency's governing political subdivision; or

1403 (b) the lead governmental entity of a multijurisdictional task force, as designated in a
1404 memorandum of understanding executed by the agencies participating in the task force.

1405 (21) "Medical or forensic entity" means a private or public hospital, medical facility, or
1406 other entity that secures biological evidence or conducts forensic examinations related to
1407 criminal investigations.

1408 [~~(16)~~] (22) "Multijurisdictional task force" means a law enforcement task force or other
1409 agency comprised of individuals who are employed by or acting under the authority of different
1410 governmental entities, including federal, state, county, or municipal governments, or any
1411 combination of federal, state, county, or municipal agencies.

1412 [~~(17)~~] (23) "Owner" means an individual or entity, other than an interest holder, that
1413 possesses a bona fide legal or equitable interest in [~~real or personal~~] property.

1414 (24) "Pawn or secondhand business" means the same as that term is defined in Section
1415 13-32a-102.

1416 [~~(18)~~] (25) "Peace officer" means an employee:

1417 (a) of an agency;

1418 (b) whose duties consist primarily of the prevention and detection of violations of laws
1419 of this state or a political subdivision of this state; and

1420 (c) who is authorized by the agency to seize property [~~under this title~~].

- 1421 (26) "Physical evidence" includes evidence that:
1422 (a) is related to:
1423 (i) an investigation;
1424 (ii) an arrest; or
1425 (iii) a prosecution that resulted in a judgment of conviction; and
1426 (b) is in the actual or constructive possession of a law enforcement agency or a court or
1427 an agent of a law enforcement agency or a court.
- 1428 [~~(19)~~] (27) (a) "Proceeds" means:
1429 (i) property of any kind that is obtained directly or indirectly as a result of the
1430 commission of an offense; or
1431 (ii) any property acquired directly or indirectly from, produced through, realized
1432 through, or caused by an act or omission regarding property under Subsection [~~(19)(a)(i)~~]
1433 (27)(a)(i).
- 1434 (b) "Proceeds" includes any property of any kind without reduction for expenses
1435 incurred in the acquisition, maintenance, or production of that property, or any other purpose
1436 regarding property under Subsection [~~(19)(a)(i)~~] (27)(a)(i).
- 1437 (c) "Proceeds" is not limited to the net gain or profit realized from the offense that
1438 subjects the property to [~~forfeiture~~] seizure.
- 1439 [~~(20) "Program" means the State Asset Forfeiture Grant Program created in Section~~
1440 [24-4-117.](#)]
- 1441 [~~(21)~~] (28) (a) "Property" means all property, whether real or personal, tangible or
1442 intangible.
- 1443 (b) "Property" does not include contraband.
- 1444 [~~(22)~~] (29) "Prosecuting attorney" means:
1445 (a) the attorney general and an assistant attorney general;
1446 (b) a district attorney or deputy district attorney;
1447 (c) a county attorney or assistant county attorney; and
1448 (d) an attorney authorized to commence an action on behalf of the state [~~under this~~
1449 title].
- 1450 (30) "Protected wildlife" means the same as that term is defined in Section [23-20-2.](#)
1451 [~~(23)~~] (31) "Public interest use" means a:

1452 (a) use by a government agency as determined by the legislative body of the agency's
1453 jurisdiction; or

1454 (b) donation of the property to a nonprofit charity registered with the state.

1455 (32) (a) "Seized property" means property seized by a peace officer or agency in
1456 accordance with Section [77-11a-201](#).

1457 (b) "Seized property" includes property that the agency seeks to forfeit under Chapter
1458 [11b, Forfeiture of Seized Property](#).

1459 [(24)] (33) "Real property" means land, including any building, fixture, improvement,
1460 appurtenance, structure, or other development that is affixed permanently to land.

1461 (34) "Violent felony" means the same as that term is defined in Section [76-3-203.5](#).

1462 (35) "Wildlife" means the same as that term is defined in Section [23-13-2](#).

1463 Section 23. Section **77-11a-102**, which is renumbered from Section 24-1-103 is
1464 renumbered and amended to read:

1465 ~~[24-1-103]~~. **77-11a-102. Venue.**

1466 (1) In addition to [~~the venue provided for under~~] Title 78B, Chapter 3, Part 3, Place of
1467 Trial -- Venue, or any other [~~provisions of law, a proceeding under this title may be~~
1468 ~~maintained~~] provision of law, a person may bring an action or proceeding under this chapter in
1469 the judicial district in which:

1470 (a) the property is seized; or

1471 (b) any part of the property is found[~~;~~ or].

1472 [~~(c) a civil or criminal action could be maintained against a claimant for the offense~~
1473 ~~subjecting the property to forfeiture under this title.~~]

1474 (2) A claimant may obtain a change of venue under Section [78B-3-309](#).

1475 Section 24. Section **77-11a-201**, which is renumbered from Section 24-2-102 is
1476 renumbered and amended to read:

1477 **Part 2. Seizure of Property and Contraband**

1478 ~~[24-2-102]~~. **77-11a-201. Grounds for seizing property and contraband.**

1479 [(+) A peace officer may seize property [~~and~~] or contraband:

1480 (1) upon a search warrant or administrative warrant that is issued in accordance with
1481 the Utah Code and the Utah Rules of Criminal Procedure[~~-~~];

1482 [~~(2) A peace officer may seize property and contraband under this chapter when:~~]

- 1483 ~~[(a)]~~ (2) when the seizure is incident to an arrest;
- 1484 ~~[(b)]~~ (3) when the property seized is the subject of a prior judgment in favor of the state
- 1485 in a criminal injunction or forfeiture proceeding under ~~[this title]~~ Chapter 11b, Forfeiture of
- 1486 Seized Property; or
- 1487 ~~[(c)]~~ (4) when the peace officer has probable cause to believe that the property or
- 1488 contraband:
- 1489 ~~[(i)]~~ (a) is directly or indirectly dangerous to health or safety;
- 1490 ~~[(ii)]~~ (b) is evidence of an offense;
- 1491 ~~[(iii)]~~ (c) has been used or was intended to be used to commit an offense; or
- 1492 ~~[(iv)]~~ (d) is proceeds of an offense.

1493 Section 25. Section **77-11a-202**, which is renumbered from Section 24-2-102.5 is

1494 renumbered and amended to read:

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

1496 **seized by a peace officer.**

1497 (1) To disclaim an ownership interest in property at the time of seizure, a person's

1498 disclaimer of the property must be knowing and voluntary.

1499 (2) ~~[If a peace officer seizes contraband, a]~~ A person may not assert an ownership

1500 interest in ~~[the contraband under this title]~~ contraband seized by a peace officer.

1501 Section 26. Section **77-11a-203**, which is renumbered from Section 24-2-103 is

1502 renumbered and amended to read:

1503 ~~[24-2-103].~~ **77-11a-203. Procedure after seizure of property or contraband.**

1504 ~~[(1) To disclaim an ownership interest in property at the time of seizure, an individual's~~

1505 ~~disclaimer of the property shall be knowing and voluntary.]~~

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

1507 property and contraband:

1508 (a) is not recoverable by replevin; and

1509 (b) is considered in the custody of the agency that employed the peace officer.

1510 (2) If property is seized, the peace officer or the peace officer's employing agency shall

1511 provide a receipt to the person from which the property is seized.

1512 (3) The receipt shall describe the:

1513 (a) property seized;

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

- 1545 (ii) the name of the person from which the property or contraband was seized; and
 1546 (iii) the agency's case number.

1547 ~~[(3) In accordance with Title 53, Chapter 20, Forensic Biological Evidence~~
 1548 ~~Preservation, an agency may process property or contraband that is seized by a peace officer for~~
 1549 ~~evidentiary or investigative purposes, including sampling or other preservation procedure,~~
 1550 ~~before disposal or destruction.]~~

1551 ~~[(4)]~~ (2) (a) Except as provided in Subsection ~~[(4)(b)]~~ (2)(b), no later than 30 days after
 1552 the day on which a peace officer seizes property in the form of cash or other readily negotiable
 1553 instruments ~~[under Section 24-2-102]~~, an agency shall deposit the property into a separate,
 1554 restricted, interest-bearing account maintained by the agency solely for the purpose of
 1555 managing and protecting the property from commingling, loss, or devaluation.

1556 (b) A prosecuting attorney may authorize one or more written extensions of the 30-day
 1557 period under Subsection ~~[(4)(a)]~~ (2)(a) if the property needs to maintain the form in which the
 1558 property was seized for evidentiary purposes or other good cause.

1559 ~~[(e)]~~ (3) An agency shall:

1560 ~~[(f)]~~ (a) have written policies for the identification, tracking, management, and
 1561 safekeeping of seized property and contraband; and

1562 ~~[(g)]~~ (b) shall have a written policy that prohibits the transfer, sale, or auction of seized
 1563 property and contraband to an employee of the agency.

1564 Section 28. Section ~~77-11a-205~~, which is renumbered from Section 24-2-105 is
 1565 renumbered and amended to read:

1566 ~~[24-2-105].~~ **77-11a-205. Transfer or release of seized property to another**
 1567 **governmental entity -- Requirements.**

1568 (1) Except as provided in Subsections ~~[(3)(a), (b), and (c)]~~ (3)(a) through (c), upon the
 1569 seizure of property by a peace officer ~~[under this title]~~, the property is subject to the exclusive
 1570 jurisdiction of a district court of this state.

1571 (2) Except as provided in Subsection (3), a peace officer, agency, or prosecuting
 1572 attorney may not directly or indirectly transfer or release ~~[property seized under this title]~~
 1573 seized property to a federal agency or to a governmental entity not created or subject to the
 1574 laws of this state.

1575 (3) An agency or prosecuting attorney may transfer or release seized property to a

1576 federal agency or to a governmental entity not created or subject to the laws of this state if:

1577 (a) (i) the property is cash or another readily negotiable instrument; and

1578 (ii) the property is evidence in, or subject to, a federal criminal indictment, a federal
1579 criminal information, or a federal criminal complaint that is filed before the property is seized;

1580 (b) (i) the property is not cash or another readily negotiable instrument; and

1581 (ii) the property is evidence in, or subject to, a federal criminal indictment, a federal
1582 criminal information, or a federal criminal complaint that is filed before the day on which the

1583 agency with custody of the property is required to return the property if no criminal or civil

1584 action is filed by the prosecuting attorney or a federal prosecutor in accordance with Section

1585 ~~[24-4-103.5]~~ [77-11b-203](#);

1586 (c) (i) the property was used in the commission of an offense in another state; and

1587 (ii) an agency of that state requests the transfer of the property before the day on which

1588 the agency with custody of the property is required to return the property if no criminal or civil

1589 action is filed by the prosecuting attorney or a federal prosecutor in accordance with Section

1590 ~~[24-4-103.5]~~ [77-11b-203](#); or

1591 (d) a district court authorizes, in accordance with Subsection (5), the transfer or release

1592 of the property to an agency of another state or a federal agency upon a petition by a

1593 prosecuting attorney or a federal prosecutor.

1594 (4) (a) A prosecuting attorney, or a federal prosecutor, may file a petition in the district
1595 court for the transfer or release of seized property.

1596 (b) If a prosecuting attorney, or a federal prosecutor, files a petition under Subsection

1597 (4)(a), the petition shall include:

1598 (i) a detailed description of the property seized;

1599 (ii) the location where the property was seized;

1600 (iii) the date the property was seized;

1601 (iv) the case number assigned by the agency; and

1602 (v) a declaration that:

1603 (A) states the basis for relinquishing jurisdiction to a federal agency or an agency of
1604 another state;

1605 (B) contains the names and addresses of any known claimant; and

1606 (C) is signed by the prosecuting attorney or federal prosecutor.

1607 (5) A district court may not authorize the transfer or release of seized property under
1608 Subsection (3)(d), unless the district court finds, by a preponderance of the evidence:

1609 (a) the property is evidence in, or subject to, a federal criminal indictment, a federal
1610 criminal information, or a federal criminal complaint after the property is seized;

1611 (b) the property may only be forfeited under federal law;

1612 (c) forfeiting the property under state law would unreasonably burden the prosecuting
1613 attorney or agency; or

1614 (d) the property was subject to a federal criminal investigation before the property was
1615 seized.

1616 (6) (a) Before a district court may order the transfer of seized property in accordance
1617 with this section, the court, the prosecuting attorney, or the federal prosecutor shall mail a
1618 notice to:

1619 (i) each address contained in the declaration under Subsection (4)(b)(v) to give a
1620 claimant the right to be heard with regard to the transfer; and

1621 (ii) (A) if a federal prosecutor files the petition under Subsection (4), the prosecuting
1622 attorney that is representing the agency with custody of the property; or

1623 (B) if a prosecuting attorney files the petition under Subsection (4), the federal
1624 prosecutor who will receive the property upon the transfer or release of the property.

1625 (b) If a claimant, or the party under Subsection (6)(a)(i), does not object to the petition
1626 to transfer the property within 10 days after the day on which the notice is mailed, the district
1627 court shall issue the district court's order in accordance with this section.

1628 (c) If the declaration does not include an address for a claimant, the district court shall
1629 delay the district court's order under this section for 20 days to allow time for the claimant to
1630 appear and make an objection.

1631 (d) (i) If a claimant, or a party under Subsection (6)(a)(i), contests a petition to transfer
1632 the property to a federal agency or to another governmental entity not created or subject to the
1633 laws of this state, the district court shall promptly set the matter for hearing.

1634 (ii) In making a determination under Subsection (5), the district court shall consider
1635 evidence regarding hardship, complexity, judicial and law enforcement resources, protections
1636 afforded under state and federal law, pending state or federal investigations, and any other
1637 relevant matter.

1638 (7) If an agency receives property, money, or other things of value under a federal law
1639 that authorizes the sharing or transfer of all or a portion of forfeited property, or the proceeds
1640 from the sale of forfeited property, the agency:

1641 (a) shall use the property, money, or other things of value in compliance with federal
1642 laws and regulations relating to equitable sharing;

1643 (b) may use the property, money, or other things of value for a law enforcement
1644 purpose described in Subsection ~~[24-4-117(10)]~~ [77-11b-403\(10\)](#); and

1645 (c) may not use the property, money, or other thing of value for a law enforcement
1646 purpose prohibited in Subsection ~~[24-4-117(11)]~~ [77-11b-403\(11\)](#).

1647 (8) An agency awarded an equitable share of property forfeited by the federal
1648 government may use the award money only after approval of the use by the agency's legislative
1649 body.

1650 (9) If a district court exercises exclusive jurisdiction over seized property, the district
1651 court's exclusive jurisdiction is terminated if the property is released by the agency with
1652 custody of the property to a claimant under:

1653 (a) Part 5, Release of Property to Claimant; or

1654 (b) Section [77-11b-203](#).[:]

1655 ~~[(a) a claimant under Subsection [24-2-107\(1\)\(a\)](#), Section [24-3-104](#), or Section~~
1656 ~~[24-4-103.5](#);~~

1657 ~~[(b) a rightful owner under Section [24-3-103](#); or]~~

1658 ~~[(c) an innocent owner or an interest holder under Section [24-2-108](#).:]~~

1659 Section 29. Section **77-11a-301** is enacted to read:

1660 **Part 3. Retention of Property and Contraband as Evidence**

1661 **77-11a-301. Retention of evidence -- Time period for retention.**

1662 (1) An agency shall retain property or contraband that is evidence of an offense in
1663 accordance with this part.

1664 (2) If an agency determines that property or contraband is evidence of an offense, the
1665 agency shall retain the property or contraband for the longer of:

1666 (a) the length of the statute of limitations for the offense if:

1667 (i) no charges are filed for the offense; or

1668 (ii) the offense remains unsolved;

1669 (b) 60 days after the day on which any individual is convicted and sentenced for the
1670 offense if:

1671 (i) each individual charged with the offense has been convicted and sentenced by a
1672 justice court; and

1673 (ii) there is no appeal pending in the district court for a trial de novo for any individual
1674 convicted and sentenced for the offense;

1675 (c) 30 days after the day on which any individual is convicted and sentenced for the
1676 offense by a district court on a trial de novo from the justice court if:

1677 (i) each individual charged with the offense has been convicted and sentenced by a
1678 justice court or by a district court on a trial de novo from the justice court; and

1679 (ii) there is no appeal pending in the district court for a trial de novo for any individual
1680 convicted and sentenced for the offense;

1681 (d) except as provided in Subsection (2)(e), 60 days after the day on which any
1682 individual is convicted and sentenced for the offense if:

1683 (i) a class A misdemeanor or felony offense is the highest level of offense for which
1684 any individual is convicted or sentenced;

1685 (ii) each individual charged with the offense has been convicted and sentenced by a
1686 district court; and

1687 (iii) there is no appeal pending in an appellate court for any individual convicted and
1688 sentenced for the offense; or

1689 (e) the time period described in Subsection [77-11a-401\(2\)](#) if the property or contraband
1690 is biological evidence of a violent felony offense.

1691 (3) An agency shall ensure that property or contraband retained as evidence is subject
1692 to a continuous chain of custody.

1693 (4) An agency is not required to retain property or contraband as evidence under
1694 Subsection (2) if:

1695 (a) (i) the agency determines that:

1696 (A) the size, bulk, or physical character renders retention of the property or contraband
1697 impracticable; or

1698 (B) the property or contraband poses a security or safety problem for the agency;

1699 (ii) the agency preserves sufficient evidence from the property or contraband for use as

1700 evidence in a prosecution of an individual for the offense in accordance with Section
1701 77-11a-302;
1702 (iii) the agency sends a written request under Subsection 77-11a-303(1) to the
1703 prosecuting attorney for permission to release or dispose of the property or contraband; and
1704 (iv) the prosecuting attorney grants the agency's written request in accordance with
1705 Section 77-11a-303;
1706 (b) a court orders the agency to return the property to a claimant under Section
1707 77-11a-505; or
1708 (c) the property or contraband is wildlife.
1709 (5) (a) Subsection (4) does not apply to property or contraband that is biological
1710 evidence of a violent felony offense.
1711 (b) Subsection (4)(a) does not apply when the release or disposal of property or
1712 contraband is in compliance with a memorandum of understanding between the agency and the
1713 prosecuting attorney.
1714 (6) Subsections (2) and (4) do not require an agency to return or dispose of property or
1715 contraband that is evidence of an offense.
1716 (7) When property is no longer subject to retention for use as evidence in the
1717 prosecution of an individual for an offense, the agency shall:
1718 (a) return the property to a claimant under Part 5, Release of Property to Claimant; or
1719 (b) dispose of the property in accordance with Part 6, Disposal of Seized Property and
1720 Contraband.
1721 (8) When contraband is no longer subject to retention for use as evidence in the
1722 prosecution of an individual for the offense, the agency shall dispose of the contraband in
1723 accordance with Part 6, Disposal of Seized Property and Contraband.
1724 Section 30. Section **77-11a-302** is enacted to read:
1725 **77-11a-302. Preservation of evidence from property or contraband.**
1726 (1) If contraband or property is a controlled substance, an agency shall preserve
1727 sufficient evidence under Subsection 77-11a-301(4) from the controlled substance by:
1728 (a) collecting and preserving a sample of the controlled substance and a sample of
1729 biological evidence from the controlled substance for independent testing and use as evidence;
1730 (b) taking a photographic or video record of the controlled substance with identifying

1731 case numbers;
1732 (c) completing a written chemical report of the controlled substance; and
1733 (d) if the controlled substance exceeds 10 pounds, retain at least one pound of the
1734 controlled substance that is randomly selected from the controlled substance.
1735 (2) If contraband or property is drug paraphernalia, an agency shall preserve sufficient
1736 evidence under Subsection 77-11a-301(4) from the drug paraphernalia by:
1737 (a) collecting and preserving a sample of the controlled substance from the drug
1738 paraphernalia and a sample of biological evidence from the drug paraphernalia for independent
1739 testing and use as evidence;
1740 (b) completing a written chemical report of the drug paraphernalia; and
1741 (c) taking a photographic or video record of the drug paraphernalia with identifying
1742 case numbers.
1743 (3) If contraband or property is a computer, the agency shall preserve sufficient
1744 evidence under Subsection 77-11a-301(4) from the computer by:
1745 (a) extracting all data from the computer that would be evidence in a prosecution of an
1746 individual for the offense;
1747 (b) collecting a sample of biological evidence from the computer for independent
1748 testing and use as evidence; and
1749 (c) taking a photographic or video record of the computer with identifying case
1750 numbers.
1751 (4) For any other type of property or contraband, the agency shall preserve sufficient
1752 evidence under Subsection 77-11a-301(4) from the property or contraband by:
1753 (a) collecting and preserving a sample of biological evidence from the property or
1754 contraband for independent testing and use as evidence; and
1755 (b) taking a photographic or video record of the property or contraband with
1756 identifying case numbers.
1757 (5) Notwithstanding this section, any property or contraband that is biological evidence
1758 of a violent felony offense is preserved in accordance with Section 77-11a-401.
1759 Section 31. Section 77-11a-303 is enacted to read:
1760 **77-11a-303. Request to prosecuting attorney by agency -- Notification to**
1761 **defendant.**

1762 (1) If an agency determines that the agency is not required to retain property or
1763 contraband as evidence under Subsection 77-11a-301(4)(a)(i) and the agency seeks to release
1764 or dispose of the property or contraband, the agency shall send a written request to the
1765 prosecuting attorney that:

1766 (a) identifies the property or contraband;

1767 (b) explains the reason for which the agency is not required to retain the property or
1768 contraband under Subsection 77-11a-301(4)(a)(i); and

1769 (c) explains the steps that the agency will take, or has taken, to preserve sufficient
1770 evidence from the property or contraband for use as evidence in a prosecution of an individual
1771 for the offense.

1772 (2) If the prosecuting attorney receives a written request under Subsection (1) and
1773 determines that the agency needs to retain the property or contraband as evidence in the
1774 prosecution of an individual for the offense, the prosecuting attorney shall send a written
1775 notification to the agency that explains the reason for which the prosecuting attorney is denying
1776 the agency's request.

1777 (3) If the prosecuting attorney receives a written request under Subsection (1) and
1778 determines that the agency does not need to retain the property or contraband as evidence in the
1779 prosecution of an individual for the offense, the prosecuting attorney shall provide written
1780 notice of the intent to not retain the property or contraband as evidence that:

1781 (a) is sent by certified mail, return receipt requested, or a delivery service that provides
1782 proof of delivery, to:

1783 (i) any individual charged with or convicted and sentenced for the offense; and

1784 (ii) the individual's most recent attorney of record; and

1785 (b) explains that the individual receiving the notice may submit a written objection to
1786 the prosecuting attorney.

1787 (4) (a) An individual, who is charged with or convicted and sentenced for the offense,
1788 may submit a written objection to the disposal or release of the property or contraband by the
1789 agency no later than 30 days after the day on which the prosecuting attorney receives proof of
1790 delivery under Subsection (3).

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

1793 prosecuting attorney is denying the agency's request.

1794 (c) If the prosecuting attorney does not receive a written objection within the time
1795 period described in Subsection (4)(a), the prosecuting attorney shall send a written notification
1796 to the agency that grants the agency's request to release or dispose of the property or
1797 contraband.

1798 (5) (a) If a prosecuting attorney receives a written request from an agency seeking to
1799 release or dispose of property or contraband, the prosecuting attorney shall:

1800 (i) provide a notice of receipt to the agency within 15 days after the day on which the
1801 prosecuting attorney receives the written request; and

1802 (ii) send a written notification to the agency of the prosecuting attorney's decision to
1803 deny or grant an agency's written request within 60 days after the day on which the prosecuting
1804 attorney receives the agency's written request.

1805 (b) If an agency does not receive a notice of receipt under Subsection (5)(a)(i) or a
1806 written notification under Subsection (5)(a)(ii), the agency may send the written request to the
1807 district attorney, county attorney, attorney general, or other prosecutor who directly oversees
1808 and supervises the prosecuting attorney.

1809 (6) If a prosecuting attorney denies an agency's written request to release or dispose of
1810 property or contraband under this section, the agency shall retain the property or contraband in
1811 accordance with Section [77-11a-301](#).

1812 (7) The requirements of this section do not apply:

1813 (a) when the release or disposal of property or contraband is in compliance with a
1814 memorandum of understanding between the agency and the prosecuting attorney; or

1815 (b) to any property or contraband that is biological evidence of a violent felony offense.

1816 Section 32. Section **77-11a-304** is enacted to read:

1817 **77-11a-304. Retention of property or contraband as an exhibit.**

1818 (1) If seized property or contraband is admitted as an exhibit for a court proceeding, the
1819 clerk of the court shall:

1820 (a) retain the property or contraband; or

1821 (b) return the property or contraband to the custody of the agency.

1822 (2) Rule 4-206 of the Utah Code of Judicial Administration applies to property or
1823 contraband that is admitted as an exhibit in a court proceeding.

1824 Section 33. Section ~~77-11a-401~~, which is renumbered from Section 53-20-102 is
1825 renumbered and amended to read:

1826 **Part 4. Preservation of Biological Evidence for Violent Felony Offenses**

1827 ~~[53-20-102]~~. 77-11a-401. Preservation of biological evidence -- Procedures
1828 -- Inventory request.

1829 (1) Except as provided in Section [~~53-20-103~~] 77-11a-402, an evidence collecting or
1830 retaining entity shall preserve biological evidence[?] of a violent felony offense in accordance
1831 with this part.

1832 (2) An evidence collecting or retaining entity shall preserve biological evidence of a
1833 violent felony offense:

1834 (a) for the longer of:

1835 (i) the length of the statute of limitations for the violent felony offense if:

1836 (A) no charges are filed for the violent felony offense; or

1837 (B) the violent felony offense remains unsolved;

1838 (ii) the length of time that the individual convicted of the violent felony offense or any
1839 lesser included violent offense remains in custody; or

1840 (iii) the length of time that a co-defendant remains in custody;

1841 (b) in an amount and manner sufficient to:

1842 (i) develop a DNA profile; and

1843 (ii) if practicable, allow for independent testing of the biological evidence by a
1844 defendant; and

1845 (c) subject to a continuous chain of custody.

1846 [~~(2)~~] (3) (a) Upon request by a defendant under Title 63G, Chapter 2, Government
1847 Records Access and Management Act, the evidence collecting or retaining entity shall prepare
1848 an inventory of the biological evidence preserved in connection with the defendant's criminal
1849 case.

1850 (b) If the evidence collecting or retaining entity cannot locate biological evidence
1851 requested under Subsection [~~(2)(a)~~] (3)(a), the custodian for the entity shall provide a sworn
1852 affidavit to the defendant that:

1853 (i) describes the efforts taken to locate the biological evidence; and

1854 (ii) affirms that the biological evidence could not be located.

1855 ~~[(3)]~~ (4) The evidence collecting or retaining entity may dispose of biological evidence
1856 before the day on which the period described in Subsection ~~[(1)(a)]~~ (2)(a) expires if:

1857 (a) no other provision of federal or state law requires the evidence collecting or
1858 retaining entity to preserve the biological evidence;

1859 (b) the evidence collecting or retaining entity sends notice in accordance with
1860 Subsection ~~[(4)]~~ (5); and

1861 (c) an individual notified under Subsection ~~[(4)(a)]~~ (5)(a) does not within 180 days
1862 after the day on which the evidence collecting or retaining entity receives proof of delivery
1863 under Subsection ~~[(4)]~~ (5):

1864 (i) file a motion for testing of the biological evidence under Section [78B-9-301](#); or

1865 (ii) submit a written request under Subsection ~~[(4)(b)(i)]~~ (5)(b)(ii).

1866 ~~[(4)]~~ (5) If the evidence collecting or retaining entity intends to dispose of the
1867 biological evidence before the day on which the period described in Subsection ~~[(1)(a)]~~ (2)(a)
1868 expires, the evidence collecting or retaining entity shall send a notice of intent to dispose of the
1869 biological evidence that:

1870 (a) is sent by certified mail, return receipt requested, or a delivery service that provides
1871 proof of delivery, to:

1872 (i) an individual who remains in custody based on a criminal conviction related to the
1873 biological evidence;

1874 (ii) the private attorney or public defender of record for each individual described in
1875 Subsection ~~[(4)(a)(i)]~~ (5)(a)(i);

1876 (iii) if applicable, the prosecuting agency responsible for the prosecution of each
1877 individual described in Subsection ~~[(4)(a)(i)]~~ (5)(a)(i); and

1878 (iv) the Utah attorney general; and

1879 (b) explains that the party receiving the notice may:

1880 (i) file a motion for testing of biological evidence under Section [78B-9-301](#); or

1881 (ii) submit a written request that the evidence collecting or retaining entity retain the
1882 biological evidence.

1883 ~~[(5)]~~ (6) (a) Subject to Subsections ~~[(5)(b) and (c)]~~ (6)(b) and (c), if the evidence
1884 collecting or retaining entity receives a written request to retain the biological evidence under
1885 Subsection ~~[(4)(b)(i)]~~ (5)(b)(ii), the evidence collecting or retaining entity shall retain the

1886 biological evidence while the defendant remains in custody.

1887 (b) Subject to Subsection ~~[(5)(c)]~~ (6)(c), the evidence collecting or retaining entity is
1888 not required to preserve physical evidence that may contain biological evidence if the physical
1889 evidence's size, bulk, or physical character renders retention impracticable.

1890 (c) If the evidence collecting or retaining entity determines that retention is
1891 impracticable, before returning or disposing of the physical evidence, the evidence collecting or
1892 retaining entity shall:

1893 (i) remove the portions of the physical evidence likely to contain biological evidence
1894 related to the violent felony offense; and

1895 (ii) preserve the removed biological evidence in a quantity sufficient to permit future
1896 DNA testing.

1897 ~~[(6)]~~ (7) To comply with the preservation requirements described in this section, a law
1898 enforcement agency or a court may:

1899 (a) retain the biological evidence; or

1900 (b) if a continuous chain of custody can be maintained, return the biological evidence
1901 to the custody of the other law enforcement agency that originally provided the biological
1902 evidence to the law enforcement agency.

1903 Section 34. Section ~~77-11a-402~~, which is renumbered from Section 53-20-103 is
1904 renumbered and amended to read:

1905 ~~[53-20-103]~~. 77-11a-402. Exceptions to preservation of biological
1906 evidence.

1907 (1) As used in this section, "offense concerning driving under the influence" means:

1908 (a) Section ~~41-6a-502~~;

1909 (b) Section ~~41-6a-502.5~~;

1910 (c) Section ~~41-6a-517~~;

1911 (d) Section ~~41-6a-530~~;

1912 (e) Section ~~76-5-102.1~~;

1913 (f) Section ~~76-5-207~~; and

1914 (g) a local ordinance similar to the offenses described in this Subsection (1).

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

1917 solely for toxicology purposes.

1918 Section 35. Section **77-11a-403**, which is renumbered from Section 53-20-104 is
1919 renumbered and amended to read:

1920 ~~[53-20-104]~~. **77-11a-403. Remedies for failure to preserve biological**
1921 **evidence.**

1922 (1) (a) Except as provided in Subsections (1)(b) and (2), if a court finds that biological
1923 evidence that reasonably could have been found to be exculpatory in a defendant's criminal
1924 case was not preserved in accordance with this chapter, the court may impose sanctions and
1925 remedies at the court's discretion, including:

1926 (i) the grant of a new trial;

1927 (ii) an instruction to the jury that evidence was not preserved as required by law;

1928 (iii) the reduction of the sentence;

1929 (iv) the dismissal of the criminal charge;

1930 (v) the vacation of the conviction; or

1931 (vi) the entry of a finding that because the evidence was not preserved in accordance
1932 with this chapter, a presumption exists that the evidence would have been exculpatory to the
1933 defendant.

1934 (b) The provisions in Subsection (1)(a) apply only if:

1935 (i) a defendant's appeal has not concluded;

1936 (ii) a defendant's time for appeal has not expired; or

1937 (iii) a defendant has received a new trial in accordance with Subsection (2)(b).

1938 (2) (a) A defendant shall seek relief under Title 78B, Chapter 9, Postconviction
1939 Remedies Act, if:

1940 (i) the defendant alleges that the biological evidence that is the basis for the defendant's
1941 claim was not preserved in accordance with this chapter; and

1942 (ii) (A) the defendant's appeal has concluded; or

1943 (B) the time for the defendant's appeal has expired.

1944 (b) If a defendant obtains relief under Title 78B, Chapter 9, Postconviction Remedies
1945 Act, the provisions in Subsection (1) apply to the defendant's new trial.

1946 Section 36. Section **77-11a-501**, which is renumbered from Section 24-2-107 is
1947 renumbered and amended to read:

1948 **Part 5. Release of Property to Claimant**1949 ~~[24-2-107].~~ **77-11a-501. Release of seized property to claimant -- Generally.**1950 ~~[(1) (a) Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation, an]~~1951 (1) (a) An agency with custody of seized property, or the prosecuting attorney, may
1952 release the property to a claimant if the agency or the prosecuting attorney:1953 (i) determines that ~~[retention of the property is unnecessary]~~ the agency does not need
1954 to retain or preserve the property as evidence; or1955 (ii) seeks to return the property to the claimant because the agency or prosecuting
1956 attorney determines that the claimant is an innocent owner or an interest holder.1957 (b) An agency with custody of seized property, or the prosecuting attorney, may not
1958 release property under this Subsection (1) if the property is subject to retention or preservation
1959 under:1960 (i) Part 3, Retention of Property and Contraband as Evidence; or1961 (ii) Part 4, Preservation of Biological Evidence for Violent Felony Offenses.1962 (c) If an agency is not required, or is no longer required, to retain or preserve property
1963 under this chapter and the agency seeks to release or dispose of the property, the agency shall
1964 exercise due diligence in attempting to notify the claimant of the property to advise the
1965 claimant that the property is to be returned.1966 ~~[(b)]~~ (2) An agency with custody of the seized property, or the prosecuting attorney,
1967 shall release the property to a claimant if:1968 ~~[(i)]~~ (a) the claimant posts a surety bond or cash with the court in accordance with
1969 [Subsection (2)] Section 77-11a-502;1970 ~~[(ii)]~~ (b) the court orders the release of property to the claimant for hardship purposes
1971 under [Subsection (3)] Section 77-11a-503;1972 ~~[(iii)]~~ (c) a claimant establishes that the claimant is an innocent owner or an interest
1973 holder under [Section 24-2-108] Section 77-11a-504; or1974 ~~[(iv)]~~ (d) the court orders property retained as evidence to be released to [a rightful
1975 owner] the claimant under [Section 24-3-104] Section 77-11a-505.1976 (3) If a peace officer for the Division of Wildlife Resources seizes a vehicle, the
1977 Division of Wildlife Resources shall release the vehicle to a claimant in accordance with
1978 Section 23-20-1.

1979 (4) (a) For a computer determined to be contraband, a court may order the reasonable
1980 extraction and return of specifically described personal digital data to the owner of the
1981 computer.

1982 (b) The agency shall determine a reasonable cost to extract the data.

1983 (c) At the time of the request to extract the data, the owner of the computer shall pay
1984 the agency the cost to extract the data.

1985 (5) (a) Before an agency may release seized property to a person claiming ownership of
1986 the property, the person shall establish that the person:

1987 (i) is the owner of the property; and

1988 (ii) may lawfully possess the property.

1989 (b) The person shall establish ownership under Subsection (5)(a) by providing to the
1990 agency:

1991 (i) identifying proof or documentation of ownership of the property; or

1992 (ii) a notarized statement if proof or documentation is not available.

1993 (c) When seized property is returned to the owner, the owner shall sign a receipt listing
1994 in detail the property that is returned.

1995 (d) The agency shall:

1996 (i) retain a copy of the receipt; and

1997 (ii) provide a copy of the receipt to the owner.

1998 ~~[(2) (a) Except as provided in Subsection (2)(b), a claimant may obtain release of~~
1999 ~~seized property by posting a surety bond or cash with the court that is in an amount equal to the~~
2000 ~~current fair market value of the property as determined by the court or a stipulation by the~~
2001 ~~parties.]~~

2002 ~~[(b) A court may refuse to order the release under Subsection (2)(a) of:]~~

2003 ~~[(i) the property if:]~~

2004 ~~[(A) the bond tendered is inadequate;]~~

2005 ~~[(B) the property is retained as evidence or is subject to retention under Title 53,~~
2006 ~~Chapter 20, Forensic Biological Evidence Preservation; or]~~

2007 ~~[(C) the property is particularly altered or designed for use in the commission of the~~
2008 ~~offense subjecting the property to forfeiture; or]~~

2009 ~~[(ii) contraband.]~~

2010 ~~[(c) If a surety bond or cash is posted and the court later determines that the property is~~
2011 ~~forfeited, the court shall order the forfeiture of the surety bond or cash in lieu of the property.]~~

2012 ~~[(3) A claimant is entitled to the immediate release of seized property for which the~~
2013 ~~agency has filed a notice of intent to forfeit under Section 24-4-103 if:]~~

2014 ~~[(a) the claimant had a possessory interest in the property at the time of seizure;]~~

2015 ~~[(b) continued possession by the agency pending a forfeiture proceeding will cause~~
2016 ~~substantial hardship to the claimant, including:]~~

2017 ~~[(i) preventing the functioning of a legitimate business;]~~

2018 ~~[(ii) preventing any individual from working;]~~

2019 ~~[(iii) preventing any child from attending elementary or secondary school;]~~

2020 ~~[(iv) preventing or hindering an individual from receiving necessary medical care;]~~

2021 ~~[(v) preventing the care of a dependent child or adult who is elderly or disabled;]~~

2022 ~~[(vi) leaving an individual homeless; or]~~

2023 ~~[(vii) any other condition that the court determines causes a substantial hardship;]~~

2024 ~~[(c) the hardship from the continued possession of the property by the agency~~
2025 ~~outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred~~
2026 ~~if the property is returned to the claimant during the pendency of the proceeding; and]~~

2027 ~~[(d) the determination of substantial hardship under this Subsection (3) is based upon~~
2028 ~~the property's use before the seizure.]~~

2029 ~~[(4) A claimant may file a motion or petition for hardship release under Subsection~~
2030 ~~(3):]~~

2031 ~~[(a) in the court in which forfeiture proceedings have commenced; or]~~

2032 ~~[(b) in a district court where there is venue if a forfeiture proceeding has not yet~~
2033 ~~commenced.]~~

2034 ~~[(5) The motion or petition for hardship release shall be served upon the agency with~~
2035 ~~custody of the property within five days after the day on which the motion or petition is filed.]~~

2036 ~~[(6) The court shall:]~~

2037 ~~[(a) schedule a hearing on the motion or petition within 14 days after the day on which~~
2038 ~~the motion or petition is filed; and]~~

2039 ~~[(b) render a decision on a motion or petition for hardship filed under this section no~~
2040 ~~later than 20 days after the day of the hearing, unless this period is extended by the agreement~~

2041 of both parties or by the court for good cause shown.]

2042 [~~(7) (a) If the claimant demonstrates substantial hardship under Subsection (3), the~~
2043 ~~court shall order the property immediately released to the claimant pending completion of any~~
2044 ~~forfeiture proceeding.]~~

2045 [~~(b) The court may place conditions on release of the property as the court finds~~
2046 ~~necessary and appropriate to preserve the availability of the property or the property's~~
2047 ~~equivalent for forfeiture.]~~

2048 [~~(8) The hardship release under this section does not apply to:]~~

2049 [~~(a) contraband; or]~~

2050 [~~(b) property that is:]~~

2051 [~~(i) subject to retention under Title 53, Chapter 20, Forensic Biological Evidence~~
2052 ~~Preservation; or]~~

2053 [~~(ii) likely to be used to commit additional offenses if returned to the claimant.]~~

2054 Section 37. Section ~~77-11a-502~~ is enacted to read:

2055 **77-11a-502. Release of seized property to claimant by surety bond or cash.**

2056 (1) Except as provided in Subsection (2), a claimant may obtain release of seized
2057 property by posting a surety bond or cash with the court that is in an amount equal to the
2058 current fair market value of the property as determined by the court or a stipulation by the
2059 parties.

2060 (2) A court may refuse to order the release of property under Subsection (1) if:

2061 (a) the bond tendered for the property is inadequate;

2062 (b) the property is subject to retention or preservation under:

2063 (i) Part 3, Retention of Property and Contraband as Evidence; or

2064 (ii) Part 4, Preservation of Biological Evidence for Violent Felony Offenses;

2065 (c) the property is particularly altered or designed for use in the commission of the
2066 offense subjecting the property to forfeiture under Section [77-11b-102](#); or

2067 (d) the property is contraband.

2068 (3) If a surety bond or cash is posted and the court later determines that the property is
2069 forfeited, the court shall order the forfeiture of the surety bond or cash in lieu of the property.

2070 Section 38. Section ~~77-11a-503~~ is enacted to read:

2071 **77-11a-503. Release of seized property subject to forfeiture to claimant for**

2072 **hardship.**

2073 (1) A claimant is entitled to the immediate release of seized property for which the
2074 agency has filed a notice of intent to forfeit under Section [77-11b-201](#) if:

2075 (a) the claimant had a possessory interest in the property at the time of seizure;

2076 (b) continued possession by the agency pending a forfeiture proceeding will cause
2077 substantial hardship to the claimant, including:

2078 (i) preventing the functioning of a legitimate business;

2079 (ii) preventing any individual from working;

2080 (iii) preventing any child from attending elementary or secondary school;

2081 (iv) preventing or hindering an individual from receiving necessary medical care;

2082 (v) preventing the care of a dependent child or adult who is elderly or disabled;

2083 (vi) leaving an individual homeless; or

2084 (vii) any other condition that the court determines causes a substantial hardship;

2085 (c) the hardship from the continued possession of the property by the agency outweighs

2086 the risk that the property will be destroyed, damaged, lost, concealed, or transferred if the

2087 property is returned to the claimant during the pendency of the proceeding; and

2088 (d) the determination of substantial hardship under this Subsection (1) is based upon
2089 the property's use before the seizure.

2090 (2) A claimant may file a motion or petition for hardship release under this section:

2091 (a) in the court in which forfeiture proceedings have commenced; or

2092 (b) in a district court where there is venue under Section [77-11a-102](#) if a forfeiture
2093 proceeding has not yet commenced.

2094 (3) The motion or petition for hardship release shall be served upon the agency with
2095 custody of the property within five days after the day on which the motion or petition is filed.

2096 (4) The court shall:

2097 (a) schedule a hearing on the motion or petition within 14 days after the day on which
2098 the motion or petition is filed; and

2099 (b) render a decision on a motion or petition for hardship filed under this section no
2100 later than 20 days after the day of the hearing, unless this period is extended by the agreement
2101 of both parties or by the court for good cause shown.

2102 (5) If the claimant demonstrates substantial hardship under Subsection (1), the court

2103 shall order the property immediately released to the claimant pending completion of any
2104 forfeiture proceeding.

2105 (6) The court may place conditions on release of the property as the court finds
2106 necessary and appropriate to preserve the availability of the property or the property's
2107 equivalent for forfeiture.

2108 (7) The hardship release under this section does not apply to:

2109 (a) contraband;

2110 (b) property that is subject to the retention or preservation requirements under:

2111 (i) Part 3, Retention of Property and Contraband as Evidence; or

2112 (ii) Part 4, Preservation of Biological Evidence for Violent Felony Offenses; or

2113 (c) property that is likely to be used to commit additional offenses if returned to the
2114 claimant.

2115 Section 39. Section **77-11a-504**, which is renumbered from Section 24-2-108 is
2116 renumbered and amended to read:

2117 **~~[24-2-108].~~ 77-11a-504. Release of seized property to innocent owner or interest**
2118 **holder.**

2119 (1) (a) [~~Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation, a~~]
2120 Except for property required to be retained or preserved under this chapter, a claimant alleged
2121 to be an innocent owner or an interest holder may recover possession of seized property by:

2122 (i) submitting a written request with the seizing agency before the later of:

2123 (A) the commencement of a civil asset forfeiture proceeding under Section
2124 77-11b-301; or

2125 (B) 30 days after the day on which the property was seized; and

2126 (ii) providing the seizing agency with:

2127 (A) evidence that establishes proof of ownership; and

2128 (B) a brief description of the date, time, and place that the claimant mislaid or
2129 relinquished possession of the seized property, or any evidence that the claimant is an innocent
2130 owner or an interest holder.

2131 (b) If a seizing agency receives a claim under Subsection (1)(a), the seizing agency
2132 shall issue a written response to the claimant within 30 days after the day on which the seizing
2133 agency receives the claim.

2134 (c) A response under Subsection (1)(b) from the seizing agency shall indicate whether
2135 the claim has been granted, denied on the merits, or denied for failure to provide the
2136 information required by Subsection (1)(a)(ii).

2137 (d) (i) If a seizing agency denies a claim for failure to provide the information required
2138 by Subsection (1)(a)(ii), the claimant has 15 days after the day on which the claim is denied to
2139 submit additional information.

2140 (ii) If a prosecuting attorney has not filed a civil action seeking to forfeit the property
2141 under [Section 77-11b-301](#), and a seizing agency has denied a claim for failure to provide the
2142 information required by Subsection (1)(a)(ii), the prosecuting attorney may not commence a
2143 civil action until:

2144 (A) the claimant has submitted information under Subsection (1)(d)(i); or

2145 (B) the deadline for the claimant to submit information under Subsection (1)(d)(i) has
2146 passed.

2147 (e) If a seizing agency fails to issue a written response within 30 days after the day on
2148 which the seizing agency receives the response, the seizing agency shall return the property.

2149 (2) If a claim under Subsection (1)(a) is granted, or the property is returned because the
2150 seizing agency fails to respond within 30 days, a claimant may not receive any expenses, costs,
2151 or attorney fees for the returned property.

2152 (3) A claimant may collect reasonable attorney fees and court costs if:

2153 (a) a claimant filed a claim under Subsection (1)(a);

2154 (b) the seizing agency denies the claim on the merits; and

2155 (c) a court determines that the claimant is an innocent owner or an interest holder in a
2156 civil asset forfeiture proceeding.

2157 (4) If a court grants reasonable attorney fees and court costs, the amount of the attorney
2158 fees begins to accrue from the day on which the seizing agency denied the claim.

2159 (5) If the court grants reasonable attorney fees and court costs under Subsection (3), the
2160 attorney fees and court costs are not subject to the 50% cap under Subsection [~~24-4-110(2)~~
2161 [77-11b-305\(2\)](#)].

2162 (6) A communication between parties regarding a claim submitted under Subsection
2163 (3) and any evidence provided to the parties in connection with a claim is subject to the Utah
2164 Rules of Evidence, Rules 408 and 410.

2165 ~~[(7) An agency and the prosecuting attorney may not forfeit the seized property of an~~
2166 ~~innocent owner or an interest holder.]~~

2167 Section 40. Section **77-11a-505**, which is renumbered from Section 24-3-104 is
2168 renumbered and amended to read:

2169 ~~[24-3-104].~~ **77-11a-505. Release of seized property to claimant when seized**
2170 **property is retained as evidence.**

2171 (1) (a) A claimant may file a petition with the court for the return of the property that is
2172 being retained as evidence in accordance with Part 3, Retention of Property and Contraband as
2173 Evidence.

2174 (b) The claimant may file the petition in:

2175 (i) the court in which criminal proceedings have commenced regarding the offense for
2176 which the property is being retained as evidence; or

2177 (ii) the district court with venue under Section ~~[24-1-103]~~ 77-11a-102 if there are no
2178 pending criminal proceedings.

2179 (c) A claimant shall serve a copy of the petition on the prosecuting attorney and the
2180 agency with custody of the property.

2181 (2) (a) The court shall provide an opportunity for an expedited hearing.

2182 (b) After the opportunity for an expedited hearing, the court may order that the property
2183 is:

2184 (i) returned to the ~~[rightful owner]~~ claimant if the claimant is the owner as determined
2185 by the court;

2186 (ii) if the offense subjecting the property to seizure results in a conviction, applied
2187 directly or by proceeds of the sale of the property toward restitution, fines, or fees owed by the
2188 ~~[rightful owner]~~ claimant in an amount set by the court;

2189 (iii) converted to a public interest use;

2190 (iv) held for further legal action;

2191 (v) sold at public auction and the proceeds of the sale applied to a public interest use;

2192 or

2193 (vi) destroyed.

2194 (3) Before the court can order property be returned to a claimant, the claimant shall
2195 establish, by clear and convincing evidence, that the claimant:

2196 (a) is the ~~rightful~~ owner; and

2197 (b) may lawfully possess the property.

2198 (4) If the court orders the property to be returned to the claimant, the agency with
2199 custody of the property shall return the property to the claimant as expeditiously as possible.

2200 Section 41. Section **77-11a-601**, which is renumbered from Section 24-3-101.5 is
2201 renumbered and amended to read:

2202 **Part 6. Disposal of Seized Property and Contraband**

2203 ~~[24-3-101.5]~~. **77-11a-601. Applicability of this part.**

2204 The provisions of this ~~chapter~~ part do not apply to property or contraband:

2205 (1) ~~[that is subject to the retention requirements under Title 53, Chapter 20, Forensic~~
2206 ~~Biological Evidence Preservation]~~ until the property or contraband is no longer subject to:

2207 (a) the retention requirements of Part 3, Retention of Property and Contraband as
2208 Evidence; or

2209 (b) the preservation requirements of Part 4, Preservation of Biological Evidence for
2210 Violent Felony Offenses; or

2211 (2) for which an agency has filed a notice of intent to seek forfeiture under ~~[Section~~
2212 ~~24-4-103]~~ Chapter 11b, Forfeiture of Seized Property.

2213 Section 42. Section **77-11a-602**, which is renumbered from Section 24-3-103 is
2214 renumbered and amended to read:

2215 ~~[24-3-103]~~. **77-11a-602. Disposition of seized property and contraband --**
2216 **Return of seized property.**

2217 (1) If a prosecuting attorney determines that seized property no longer needs to be
2218 retained ~~[for court proceedings]~~ as evidence under Section [77-11a-301](#), the prosecuting
2219 attorney may:

2220 (a) petition the court to apply the property that is money towards restitution, fines, fees,
2221 or monetary judgments owed by the owner of the property;

2222 (b) petition the court for an order transferring ownership of any weapons to the agency
2223 with custody for the agency's use and disposal in accordance with Section ~~[24-3-103.5]~~
2224 [77-11a-603](#), if the owner:

2225 (i) is the individual who committed the offense for which the weapon was seized; or

2226 (ii) may not lawfully possess the weapon; or

2227 (c) notify the agency with custody of the property or contraband that:

2228 (i) the property may be returned to the [rightful] owner in accordance with Section

2229 77-11a-501 if the [rightful] owner may lawfully possess the property; or

2230 (ii) the contraband may be disposed of or destroyed.

2231 ~~[(2) The agency shall exercise due diligence in attempting to notify the rightful owner~~

2232 ~~of the property to advise the owner that the property is to be returned.]~~

2233 ~~[(3) (a) For a computer determined to be contraband, a court may order the reasonable~~

2234 ~~extraction and return of specifically described personal digital data to the rightful owner.]~~

2235 ~~[(b) The law enforcement agency shall determine a reasonable cost to extract the data.]~~

2236 ~~[(c) At the time of the request to extract the data, the owner of the computer shall pay~~

2237 ~~the agency the cost to extract the data.]~~

2238 ~~[(4) (a) Before an agency may release seized property to a person claiming ownership~~

2239 ~~of the property, the person shall establish in accordance with Subsection (4)(b) that the~~

2240 ~~person:]~~

2241 ~~[(i) is the rightful owner; and]~~

2242 ~~[(ii) may lawfully possess the property.]~~

2243 ~~[(b) The person shall establish ownership under Subsection (4)(a) by providing to the~~

2244 ~~agency:]~~

2245 ~~[(i) identifying proof or documentation of ownership of the property; or]~~

2246 ~~[(ii) a notarized statement if proof or documentation is not available.]~~

2247 ~~[(5) (a) When seized property is returned to the owner, the owner shall sign a receipt~~

2248 ~~listing in detail the property that is returned.]~~

2249 ~~[(b) The agency shall:]~~

2250 ~~[(i) retain a copy of the receipt; and]~~

2251 ~~[(ii) provide a copy of the receipt to the owner.]~~

2252 ~~[(6)]~~ (2) (a) Except as provided in Subsection ~~[(6)(b)]~~ (2)(b), if the agency is unable to

2253 locate the [rightful] owner of the property or the [rightful] owner is not entitled to lawfully

2254 possess the property, the agency may:

2255 (i) apply the property to a public interest use;

2256 (ii) sell the property at public auction and apply the proceeds of the sale to a public

2257 interest use; ~~[or]~~

2258 (iii) destroy the property if the property is unfit for a public interest use or for sale.

2259 (b) If the property described in Subsection ~~[(6)(a)]~~ (2)(a) is a firearm, the agency shall
2260 dispose of the firearm in accordance with Section ~~[24-3-103.5]~~ [77-11a-603](#).

2261 ~~[(7)]~~ (3) Before applying the property or the proceeds from the sale of the property to a
2262 public interest use, the agency shall obtain from the legislative body of the agency's
2263 jurisdiction:

2264 (a) permission to apply the property or the proceeds to public interest use; and

2265 (b) the designation and approval of the public interest use of the property or the
2266 proceeds.

2267 ~~[(8)]~~ (4) If a peace officer seizes property that at the time of seizure is held by a pawn
2268 or secondhand business in the course of the pawn or secondhand business's business, the
2269 provisions of Section [13-32a-116](#) shall apply to the disposition of the property.

2270 Section 43. Section **77-11a-603**, which is renumbered from Section 24-3-103.5 is
2271 renumbered and amended to read:

2272 ~~[24-3-103.5]~~. **77-11a-603. Disposition of firearms no longer needed as**
2273 **evidence.**

2274 (1) As used in this section:

2275 (a) "Confiscated or unclaimed firearm" means a firearm that is subject to disposal by
2276 an agency under Section ~~[24-3-103]~~ [77-11a-602](#) or [53-5c-202](#).

2277 (b) "Department" means the Department of Public Safety created in Section [53-1-103](#).

2278 (c) "Federally licensed firearms dealer" means a person:

2279 (i) licensed as a dealer under 18 U.S.C. Sec. 923; and

2280 (ii) engaged in the business of selling firearms.

2281 (d) "State-approved dealer" means the federally licensed firearms dealer that contracts
2282 with the department under Subsection (4).

2283 (2) An agency shall dispose of a confiscated or unclaimed firearm by:

2284 (a) selling or destroying the confiscated or unclaimed firearm in accordance with
2285 Subsection (3);

2286 (b) giving the confiscated or unclaimed firearm to the state-approved dealer to sell or
2287 destroy in accordance with Subsection (4) and the agreement between the state-approved dealer
2288 and the department; or

2289 (c) after the agency obtains approval from the legislative body of the agency's
2290 jurisdiction, transferring the confiscated or unclaimed firearm to the Bureau of Forensic
2291 Services, created in Section [53-10-401](#), or another public forensic laboratory for testing.

2292 (3) (a) An agency that elects to dispose of a confiscated or unclaimed firearm under
2293 Subsection (2)(a) shall:

2294 (i) sell the confiscated or unclaimed firearm to a federally licensed firearms dealer and
2295 apply the proceeds from the sale to a public interest use; or

2296 (ii) destroy the firearm, if the agency determines that:

2297 (A) the condition of a confiscated or unclaimed firearm makes the firearm unfit for
2298 sale; or

2299 (B) the confiscated or unclaimed firearm is associated with a notorious crime.

2300 (b) Before an agency applies the proceeds of a sale of a confiscated or unclaimed
2301 firearm to a public interest use, the agency shall obtain from the legislative body of the agency's
2302 jurisdiction:

2303 (i) permission to apply the proceeds of the sale to a public interest use; and

2304 (ii) the designation and approval of the public interest use to which the agency applies
2305 the proceeds.

2306 (4) (a) (i) The department shall, in accordance with Title 63G, Chapter 6a, Utah
2307 Procurement Code, contract with a federally licensed firearms dealer to sell or destroy all
2308 confiscated or unclaimed firearms in the state.

2309 (ii) The term of an agreement executed in accordance with this Subsection (4) may not
2310 exceed five years.

2311 (iii) Nothing in this Subsection (4) prevents the department from contracting with the
2312 same federally licensed firearms dealer more than once.

2313 (b) An agreement executed in accordance with Subsection (4)(a) shall:

2314 (i) address the amount of money that the federally licensed firearms dealer is entitled to
2315 retain from the sale of each confiscated or unclaimed firearm as compensation for the federally
2316 licensed firearms dealer's performance under the agreement;

2317 (ii) require the federally licensed firearms dealer to donate, on behalf of the state, all
2318 proceeds from the sale of a confiscated or unclaimed firearm, except the amount described in
2319 Subsection (4)(b)(i), to an organization that:

- 2320 (A) is exempt from taxation under Section 501(c)(3), Internal Revenue Code;
- 2321 (B) complies with any applicable licensing or registration requirements in the state;
- 2322 (C) primarily helps the families of law enforcement officers in the state who die in the
- 2323 line of duty;
- 2324 (D) gives financial assistance to the families of law enforcement officers in the state
- 2325 who die in the line of duty; and
- 2326 (E) provides other assistance to children of active law enforcement officers, including
- 2327 scholarships;
- 2328 (iii) state that if the federally licensed firearms dealer determines that the condition of a
- 2329 confiscated or unclaimed firearm makes the firearm unfit for sale, the federally licensed
- 2330 firearms dealer shall destroy the firearm; and
- 2331 (iv) provide a procedure by which the department can ensure that the federally licensed
- 2332 firearms dealer complies with the provisions of the agreement and applicable law.
- 2333 Section 44. Section **77-11b-101** is enacted to read:

2334 **CHAPTER 11b. FORFEITURE OF SEIZED PROPERTY**

2335 **Part 1. General Provisions**

2336 **77-11b-101. Definitions.**

2337 As used in this chapter:

- 2338 (1) (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not
- 2339 guilty.
- 2340 (b) "Acquitted" does not include:
 - 2341 (i) a verdict of guilty on a lesser or reduced charge;
 - 2342 (ii) a plea of guilty to a lesser or reduced charge; or
 - 2343 (iii) dismissal of a charge as a result of a negotiated plea agreement.
- 2344 (2) "Agency" means the same as that term is defined in Section [77-11a-101](#).
- 2345 (3) "Claimant" means the same as that term is defined in Section [77-11a-101](#).
- 2346 (4) "Commission" means the State Commission on Criminal and Juvenile Justice
- 2347 created in Section [63M-7-201](#).
- 2348 (5) "Complaint" means a civil or criminal complaint seeking the forfeiture of any
- 2349 property under this chapter.
- 2350 (6) "Forfeit" means to divest a claimant of an ownership interest in property seized

2351 under this title.

2352 (7) "Innocent owner" means the same as that term is defined in Section [77-11a-101](#).

2353 (8) "Interest holder" means the same as that term is defined in Section [77-11a-101](#).

2354 (9) "Known address" means:

2355 (a) any address provided by a claimant to the peace officer or agency at the time the
2356 property is seized; or

2357 (b) the claimant's most recent address on record with a governmental entity if no
2358 address was provided at the time of the seizure.

2359 (10) "Legal costs" means the costs and expenses incurred by a party in a forfeiture
2360 action.

2361 (11) "Legislative body" means the same as that term is defined in Section [77-11a-101](#).

2362 (12) "Peace officer" means the same as that term is defined in Section [77-11a-101](#).

2363 (13) "Proceeds" means the same as that term is defined in Section [77-11a-101](#).

2364 (14) "Program" means the State Asset Forfeiture Grant Program created in Section
2365 [77-11b-403](#).

2366 (15) "Property" means the same as that term is defined in Section [77-11a-101](#).

2367 (16) "Prosecuting attorney" means the same as that term is defined in Section
2368 [77-11a-101](#).

2369 (17) "Seized property" means the same as that term is defined in Section [77-11a-101](#).

2370 Section 45. Section **77-11b-102**, which is renumbered from Section 24-4-102 is

2371 renumbered and amended to read:

2372 ~~[24-4-102]~~. **77-11b-102. Property subject to forfeiture.**

2373 (1) (a) Except as provided in Subsection (2), (3), or (4), an agency may seek to forfeit:

2374 ~~[(a)]~~ (i) seized property that was used to facilitate the commission of an offense that is
2375 a violation of federal or state law; ~~[and]~~ or

2376 ~~[(b)]~~ (ii) seized proceeds.

2377 (b) An agency, or the prosecuting attorney, may not forfeit the seized property of an
2378 innocent owner or an interest holder.

2379 (2) If seized property is used to facilitate an offense that is a violation of Section

2380 [76-10-1204](#), [76-10-1205](#), [76-10-1206](#), or [76-10-1222](#), an agency may not forfeit the property if

2381 the forfeiture would constitute a prior restraint on the exercise of an affected party's rights

2382 under the First Amendment to the Constitution of the United States or Utah Constitution,
2383 Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's
2384 rights under the First Amendment to the Constitution of the United States or Utah Constitution,
2385 Article I, Section 15.

2386 (3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502,
2387 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1),
2388 Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not seek forfeiture of the
2389 motor vehicle, unless:

2390 (a) the operator of the vehicle has previously been convicted of an offense committed
2391 after May 12, 2009, that is:

2392 (i) a felony driving under the influence violation under Section 41-6a-502 or
2393 Subsection 76-5-102.1(2)(a);

2394 (ii) a felony violation under Subsection 76-5-102.1(2)(b);

2395 (iii) a violation under Section 76-5-207; or

2396 (iv) operating a motor vehicle with any amount of a controlled substance in an
2397 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
2398 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g); or

2399 (b) the operator of the vehicle was driving on a denied, suspended, revoked, or
2400 disqualified license and:

2401 (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii)
2402 was imposed because of a violation under:

2403 (A) Section 41-6a-502;

2404 (B) Section 41-6a-517;

2405 (C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

2406 (D) Section 41-6a-520;

2407 (E) operating a motor vehicle with any amount of a controlled substance in an
2408 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
2409 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

2410 (F) Section 76-5-102.1;

2411 (G) Section 76-5-207; or

2412 (H) a criminal prohibition as a result of a plea bargain after having been originally

2413 charged with violating one or more of the sections or ordinances described in Subsections
2414 (3)(b)(i)(A) through (G); or

2415 (ii) the denial, suspension, revocation, or disqualification described in [~~Subsections~~
2416 ~~(3)(b)(i)(A) through (H)~~] Subsection (3)(b)(i):

2417 (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension,
2418 revocation, or disqualification; and

2419 (B) the original denial, suspension, revocation, or disqualification was imposed
2420 because of a violation described in [~~Subsections (3)(b)(i)(A) through (H)~~] Subsection (3)(b)(i).

2421 (4) If a peace officer seizes property incident to an arrest solely for possession of a
2422 controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection 58-37-8(2)(b)(i), an
2423 agency may not seek to forfeit the property that was seized in accordance with the arrest.

2424 Section 46. Section **77-11b-103**, which is renumbered from Section 24-4-106 is
2425 renumbered and amended to read:

2426 ~~[24-4-106].~~ **77-11b-103. Trial by jury.**

2427 The right to trial by jury applies to forfeiture proceedings under this chapter.

2428 Section 47. Section **77-11b-104** is enacted to read:

2429 **77-11b-104. Venue.**

2430 Notwithstanding Title 78B, Chapter 3, Part 3, Place of Trial -- Venue, or any other
2431 provision of law, a person may bring an action or proceeding under this chapter in the judicial
2432 district in which:

2433 (1) the property is seized;

2434 (2) any part of the property is found; or

2435 (3) a civil or criminal action could be maintained against a claimant for the offense
2436 subjecting the property to forfeiture under this chapter.

2437 Section 48. Section **77-11b-105**, which is renumbered from Section 24-4-119 is
2438 renumbered and amended to read:

2439 ~~[24-4-119].~~ **77-11b-105. Training requirements.**

2440 (1) As used in this section:

2441 (a) "Council" means the Utah Prosecution Council created in Section 67-5a-1.

2442 (b) "Division" means the Peace Officers Standards and Training Division created in
2443 Section 53-6-103.

2444 (2) To participate in the program, an agency shall have at least one employee who is
2445 certified by the division as an asset forfeiture specialist through the completion of an online
2446 asset forfeiture course by the division.

2447 (3) The division shall:

2448 (a) develop an online asset forfeiture specialist course that is available to an agency for
2449 certification purposes;

2450 (b) certify an employee of an agency who meets the course requirements to be an asset
2451 forfeiture specialist;

2452 (c) recertify, every 36 months, an employee who is designated as an asset forfeiture
2453 specialist by an agency;

2454 (d) submit annually a report to the commission no later than April 30 that contains a
2455 list of the names of the employees and agencies participating in the certification courses;

2456 (e) review and update the asset forfeiture specialist course each year to comply with
2457 state and federal law; and

2458 (f) provide asset forfeiture training to all peace officers in basic training programs.

2459 (4) To be reimbursed for costs under Subsection [~~24-4-115(3)(b)~~] [77-11b-401\(3\)\(b\)](#), a
2460 prosecuting agency shall have at least one employee who is certified by the council as an asset
2461 forfeiture specialist through the completion of an online asset forfeiture course.

2462 (5) The council shall:

2463 (a) develop an online asset forfeiture specialist course that is available to a prosecuting
2464 agency for certification purposes;

2465 (b) certify an employee of a prosecuting agency who meets the course requirements to
2466 be an asset forfeiture specialist;

2467 (c) submit annually a report to the commission no later than April 30 that contains a
2468 list of the names of the employees and prosecuting agencies participating in certification
2469 courses by the council; and

2470 (d) review and update the asset forfeiture specialist course each year to comply with
2471 state and federal law.

2472 Section 49. Section **77-11b-201**, which is renumbered from Section 24-4-103 is
2473 renumbered and amended to read:

2474 **Part 2. Initiating Forfeiture of Seized Property**

2475 ~~[24-4-103]~~. 77-11b-201. **Initiating forfeiture proceedings -- Notice of intent to**
2476 **seek forfeiture.**

2477 (1) (a) If an agency seeks to forfeit [~~property seized under this title~~] seized property, the
2478 agency shall serve a notice of intent to seek forfeiture to any known claimant within 30 days
2479 after the day on which the property is seized.

2480 (b) The notice of intent to seek forfeiture shall describe:

2481 (i) the date of the seizure;

2482 (ii) the property seized;

2483 (iii) the claimant's rights and obligations under this chapter and Chapter 11a, Seizure
2484 and Retention of Property and Contraband, including the availability of hardship relief in
2485 appropriate circumstances; and

2486 (iv) the statutory basis for the forfeiture, including the judicial proceedings by which
2487 the property may be forfeited under this chapter.

2488 (c) The agency shall serve the notice of intent to seek forfeiture by:

2489 (i) certified mail, with a return receipt requested, to the claimant's known address; or

2490 (ii) personal service.

2491 (d) A court may void a forfeiture made without notice under Subsection (1)(a), unless
2492 the agency demonstrates:

2493 (i) good cause for the failure to give notice to the claimant; or

2494 (ii) that the claimant had actual notice of the seizure.

2495 (2) Before an agency serves a notice of intent to forfeit seized property under
2496 Subsection (1)(a), the agency shall conduct a search of public records applicable to the seized
2497 property, including county records or records of the Division of Corporations and Commercial
2498 Code, the Division of Motor Vehicles, or other state or federal licensing agencies, in order to
2499 obtain the name and address of each interest holder of the property.

2500 (3) If an agency serves a notice of intent to forfeit seized property under Subsection
2501 (1)(a), an individual or entity may not alienate, convey, sequester, or attach the property until a
2502 court:

2503 (a) issues a final order to dismiss an action under this [~~title~~] chapter; or

2504 (b) orders the forfeiture of the property.

2505 (4) (a) (i) If an agency has served each claimant with a notice of intent to seek

2506 forfeiture, the agency shall present a written request for forfeiture to the prosecuting attorney of
2507 the municipality or county where the property is seized.

2508 (ii) The agency shall provide the request under Subsection (4)(a)(i) no later than 45
2509 days after the day on which the property is seized.

2510 (b) The written request described in Subsection (4)(a) shall:

2511 (i) describe the property that the agency is seeking to forfeit; and

2512 (ii) include a copy of all reports, supporting documents, and other evidence that is
2513 necessary for the prosecuting attorney to determine the legal sufficiency for filing a forfeiture
2514 action.

2515 (c) The prosecuting attorney shall:

2516 (i) review the written request described in Subsection (4)(a)(i); and

2517 (ii) within 75 days after the day on which the property is seized, decline or accept, in
2518 writing, the agency's written request for the prosecuting attorney to initiate a proceeding to
2519 forfeit the property.

2520 Section 50. Section **77-11b-202**, which is renumbered from Section 24-4-103.3 is
2521 renumbered and amended to read:

2522 ~~[24-4-103.3]~~. **77-11b-202. Sale of seized property subject to forfeiture.**

2523 (1) (a) [~~Subject to Subsection (2) and Title 53, Chapter 20, Forensic Biological~~
2524 ~~Evidence Preservation~~] Except for property that is required to be retained or preserved under
2525 Chapter 11a, Seizure and Retention of Property and Contraband, the court may order seized
2526 property[;] for which a forfeiture proceeding is pending[;] to:

2527 (i) be sold, leased, rented, or operated to satisfy a specified interest of any claimant; or

2528 (ii) preserve the interests of any party on motion of that party.

2529 (b) The court may only enter an order under Subsection (1)(a) after:

2530 (i) written notice to any person known to have an interest in the property has been
2531 given; and

2532 (ii) an opportunity for a hearing for any person known to have an interest in the
2533 property has occurred.

2534 (2) (a) A court may order a sale of property under Subsection (1) when:

2535 (i) the property is liable to perish, waste, or be significantly reduced in value; or

2536 (ii) the expenses of maintaining the property are disproportionate to the property's

2537 value.

2538 (b) A third party designated by the court shall:

2539 (i) dispose of the property by a commercially reasonable public sale; and

2540 (ii) distribute the proceeds in the following order of priority:

2541 (A) first, for the payment of reasonable expenses incurred in connection with the sale;

2542 (B) second, for the satisfaction of an interest, including an interest of an interest holder,

2543 in the order of an interest holder's priority as determined by Title 70A, Uniform Commercial

2544 Code; and

2545 (C) third, any balance of the proceeds shall be preserved in the actual or constructive

2546 custody of the court, in an interest-bearing account, subject to further proceedings under this

2547 chapter.

2548 Section 51. Section **77-11b-203**, which is renumbered from Section 24-4-103.5 is

2549 renumbered and amended to read:

2550 ~~[24-4-103.5].~~ **77-11b-203. Mandatory return of seized property subject to**

2551 **forfeiture.**

2552 (1) [~~Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation]~~

2553 Except for property that is required to be retained or preserved under Chapter 11a, Seizure and

2554 Retention of Property and Contraband, an agency shall promptly return [~~property seized under~~

2555 ~~this title;~~ seized property to a claimant and the prosecuting attorney may take no further action

2556 to forfeit the property, unless within 75 days after the day on which the property is seized:

2557 (a) the prosecuting attorney:

2558 (i) files a criminal indictment or information under Subsection ~~[24-4-105(3)]~~

2559 77-11b-301(3);

2560 (ii) files a petition to transfer the property to another agency in accordance with Section

2561 ~~[24-2-105]~~ 77-11a-205; or

2562 (iii) files a civil forfeiture complaint under Section ~~[24-4-104]~~ 77-11b-302; or

2563 (b) the prosecuting attorney or a federal prosecutor obtains a restraining order under

2564 Subsection ~~[24-4-105(4)]~~ 77-11b-301(4).

2565 (2) (a) The prosecuting attorney may file a petition to extend the deadline under

2566 Subsection (1) by 21 days.

2567 (b) If a prosecuting attorney files a petition under Subsection (2)(a)[;] and the

2568 prosecuting attorney provides good cause for extending the deadline, a court shall grant the
2569 petition.

2570 (c) The prosecuting attorney may not file more than one petition under this Subsection
2571 (2).

2572 (3) If a prosecuting attorney is unable to file a civil forfeiture complaint under
2573 Subsection (1)(a)(iii) because a claimant has filed a claim under Section [~~24-2-108~~] [77-11a-504](#)
2574 and the claimant has an extension to provide additional information on the claim under
2575 Subsection [~~24-2-108(1)(d)~~] [77-11a-504\(1\)\(d\)](#), the deadline under Subsection (1) may be
2576 extended by 15 days.

2577 Section 52. Section **77-11b-204**, which is renumbered from Section 24-4-111 is
2578 renumbered and amended to read:

2579 [~~24-4-111~~]. **77-11b-204. Compensation for damaged property subject to**
2580 **forfeiture.**

2581 (1) As used in this section, "damage or other injury" does not mean normal
2582 depreciation, deterioration, or ordinary wear and tear of the property.

2583 (2) If seized property is returned under this chapter, a claimant has a civil right of
2584 action against an agency for a claim based upon the negligent destruction, loss, or damage or
2585 other injury to seized property while in the possession or custody of the agency.

2586 Section 53. Section **77-11b-301**, which is renumbered from Section 24-4-105 is
2587 renumbered and amended to read:

2588 **Part 3. Forfeiture Proceedings**

2589 [~~24-4-105~~]. **77-11b-301. Forfeiture of seized property through the criminal case.**

2590 (1) As used in this section, "defendant" means a claimant who is criminally prosecuted
2591 for the offense subjecting the property to forfeiture under Subsection [~~24-4-102(1)~~]

2592 [77-11b-102\(1\)](#).

2593 (2) A prosecuting attorney may seek forfeiture of the defendant's interest in seized
2594 property through the criminal case.

2595 (3) If the prosecuting attorney seeks forfeiture of a defendant's interest in seized
2596 property through the criminal case, the prosecuting attorney shall state in the information or
2597 indictment the grounds for which the agency seeks to forfeit the property.

2598 (4) (a) (i) A court may enter a restraining order or injunction or take any other

2599 reasonable action to preserve property being forfeited under this section.

2600 (ii) Before a court's decision under Subsection (4)(a)(i), a known claimant, who can be
2601 identified after due diligence, shall be:

2602 (A) provided notice; and

2603 (B) given an opportunity for a hearing.

2604 (iii) A court shall grant an order under Subsection (4)(a)(i) if:

2605 (A) there is a substantial probability that the state will prevail on the issue of forfeiture
2606 and that failure to enter the order will result in the property being sold, transferred, destroyed,
2607 or removed from the jurisdiction of the court or otherwise made unavailable for forfeiture; and

2608 (B) the need to preserve the availability of the property or prevent the property's sale,
2609 transfer, destruction, or removal through the entry of the requested order outweighs the
2610 hardship against a claimant against which the order is to be entered.

2611 (b) A court may enter a temporary restraining order ex parte upon application of the
2612 prosecuting attorney or a federal prosecutor before or after an information or indictment has
2613 been filed, with respect to the property, if the prosecuting attorney or federal prosecutor
2614 demonstrates that:

2615 (i) there is probable cause to believe that the property with respect to which the order is
2616 sought would, in the event of a conviction, be forfeited under this section; and

2617 (ii) providing notice to a claimant would jeopardize the availability of the property for
2618 forfeiture or would jeopardize an ongoing criminal investigation.

2619 (c) The temporary order expires no more than 10 days after the day on which the order
2620 is entered unless extended for good cause shown or unless the claimant against whom the
2621 temporary order is entered consents to an extension.

2622 (d) After service of the temporary order upon a claimant known to the prosecuting
2623 attorney or federal prosecutor, the court shall hold a hearing on the order as soon as practicable
2624 and before the expiration of the temporary order.

2625 (e) The court is not bound by the Utah Rules of Evidence regarding evidence the court
2626 may receive and consider at a hearing under this section.

2627 (5) Upon conviction of a defendant for the offense subjecting the property to forfeiture,
2628 a court or jury shall find property forfeited to the state if the prosecuting attorney establishes,
2629 beyond a reasonable doubt, that:

2630 (a) the defendant:

2631 (i) committed the offense subjecting the property to forfeiture under Subsection

2632 ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#);

2633 (ii) knew of the offense subjecting the property to forfeiture under Subsection

2634 ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#) and allowed the property to be used in furtherance of the offense;

2635 or

2636 (iii) acquired the property at the time of the offense subjecting the property to forfeiture

2637 under Subsection ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#), or within a reasonable time after the offense

2638 occurred; or

2639 (b) there is no likely source for the purchase or acquisition of the property other than

2640 the commission of the offense subjecting the property to forfeiture under Subsection

2641 ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#).

2642 (6) (a) Upon conviction of a defendant for the offense subjecting the property to

2643 forfeiture and a finding by a court or jury that the property is forfeited, the court shall enter a

2644 judgment and order the property forfeited to the state upon the terms stated by the court in the

2645 court's order.

2646 (b) Following the entry of an order declaring the property forfeited under Subsection

2647 (6)(a), and upon application by the prosecuting attorney, the court may:

2648 (i) enter a restraining order or injunction;

2649 (ii) require the execution of satisfactory performance bonds;

2650 (iii) appoint a receiver, conservator, appraiser, accountant, or trustee; or

2651 (iv) take any other action to protect the state's interest in property ordered forfeited.

2652 (7) (a) (i) After property is ordered forfeited under this section, the agency shall direct

2653 the disposition of the property under Section ~~[24-4-115]~~ [77-11b-401](#).

2654 (ii) If property under Subsection (7)(a)(i) is not transferrable for value to the agency, or

2655 the agency is not able to exercise an ownership interest in the property, the property may not

2656 revert to the defendant.

2657 (iii) A defendant, or a person acting in concert with or on behalf of the defendant, is

2658 not eligible to purchase forfeited property at any sale held by the agency unless approved by the

2659 judge.

2660 (b) A court may stay the sale or disposition of the property pending the conclusion of

2661 any appeal of the offense subjecting the property to forfeiture if the claimant demonstrates that
2662 proceeding with the sale or disposition of the property may result in irreparable injury, harm, or
2663 loss.

2664 (8) If a defendant is acquitted of the offense subjecting the property to forfeiture under
2665 this section on the merits:

2666 (a) (i) the property for which forfeiture is sought shall be returned to the claimant; or

2667 (ii) the open market value of the property for the property for which forfeiture is sought
2668 shall be awarded to the claimant if the property has been disposed of under Section

2669 [~~24-4-103.3~~] [77-11b-202](#); and

2670 (b) any payment requirement under this chapter related to the holding of property shall
2671 be paid to the claimant.

2672 (9) Except as provided under Subsection (4) or (12), a claimant claiming an interest in
2673 property that is being forfeited under this section:

2674 (a) may not intervene in a trial or appeal of a criminal case involving the forfeiture of
2675 the property; and

2676 (b) may not commence an action at law or equity concerning the validity of the
2677 claimant's alleged interests in the property subsequent to the filing of an indictment or an
2678 information alleging that the property is being forfeited under this section.

2679 (10) A court that has jurisdiction of a case under this part may enter orders under this
2680 section without regard to the location of any property that is or has been ordered forfeited under
2681 this section.

2682 (11) To facilitate the identification or location of property forfeited under this section,
2683 and to facilitate the disposition of a petition for remission or mitigation of forfeiture after the
2684 entry of an order declaring property forfeited to the agency, the court may, upon application of
2685 the prosecuting attorney, order:

2686 (a) the testimony of any witness relating to the forfeited property be taken by
2687 deposition; and

2688 (b) any book, paper, document, record, recording, or other material is produced in
2689 accordance with the Utah Rules of Civil Procedure.

2690 (12) (a) If a court orders property forfeited under this section, the prosecuting attorney
2691 shall publish notice of the intent to dispose of the property.

2692 (b) Service by publication shall be by publication of two notices, in two successive
2693 weeks, of the forfeiture proceeding:

2694 (i) in a newspaper of general circulation in the county in which the seizure of the
2695 property occurred; and

2696 (ii) on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b).

2697 (c) The prosecuting attorney shall also send written notice to any claimants, other than
2698 the defendant, known to the prosecuting attorney to have an interest in the property, at the
2699 claimant's known address.

2700 (13) (a) A claimant, other than the defendant, may petition the court for a hearing to
2701 adjudicate the validity of the claimant's alleged interest in property forfeited under this section.

2702 (b) A claimant shall file a petition within 30 days after the earlier of the day on which a
2703 notice is published or the day on which the claimant receives written notice under Subsection
2704 (12)(a).

2705 (14) The petition under Subsection (13) shall:

2706 (a) be in writing and signed by the claimant under penalty of perjury;

2707 (b) set forth the nature and extent of the claimant's right, title, or interest in the
2708 property, the time and circumstances of the claimant's acquisition of the right, title, or interest
2709 in the property; and

2710 (c) set forth any additional facts supporting the claimant's claim and the relief sought.

2711 (15) (a) The court shall expedite the trial or hearing under this Subsection (15) to the
2712 extent practicable.

2713 (b) Any party may request a jury to decide any genuine issue of material fact.

2714 (c) The court may consolidate a trial or hearing on the petition under Subsection
2715 (11)(b) and any other petition filed by a claimant, other than the defendant, under this section.

2716 (d) For a petition under this section, the court shall permit the parties to conduct
2717 pretrial discovery in accordance with the Utah Rules of Civil Procedure.

2718 (e) (i) At the trial or hearing, the claimant may testify and present evidence and
2719 witnesses on the claimant's own behalf and cross-examine witnesses who appear at the hearing.

2720 (ii) The prosecuting attorney may present evidence and witnesses in rebuttal and in
2721 defense of the claim to the property and cross-examine witnesses who appear.

2722 (f) In addition to testimony and evidence presented at the trial or hearing, the court may

2723 consider the relevant portion of the record of the criminal case that resulted in the order of
2724 forfeiture.

2725 (g) A trial or hearing shall be conducted in accordance with the Utah Rules of
2726 Evidence.

2727 (16) The court shall amend the order of forfeiture in accordance with the court's
2728 determination, if after the trial or hearing under Subsection (15), the court or jury determines
2729 that the claimant has established, by a preponderance of the evidence, that:

2730 (a) (i) the claimant has a legal right, title, or interest in the property; and

2731 (ii) the claimant's right, title, or interest renders the order of forfeiture invalid in whole
2732 or in part because the right, title, or interest was vested in the claimant rather than the
2733 defendant, or was superior to any right, title, or interest of the defendant at the time of the
2734 commission of the offense subjecting the property to forfeiture under Subsection [~~24-4-102~~(+)]
2735 [77-11b-102](#)(1); or

2736 (b) the claimant acquired the right, title, or interest in the property in a bona fide
2737 transaction for value, and, at the time of acquisition, the claimant did not know that the
2738 property could be forfeited under this chapter.

2739 (17) An agency has clear title to the property and may transfer title to a purchaser or
2740 transferee if:

2741 (a) the court issued a disposition on all petitions under Subsection (13) denying any
2742 claimant's right, title, or interest to the property; or

2743 (b) a petition was not filed under the timelines provided in Subsection (13)(b).

2744 (18) If the prosecuting attorney seeks to discontinue a forfeiture proceeding under this
2745 section and transfer the action to another state or federal agency that has initiated a civil or
2746 criminal proceeding involving the same property, the prosecuting attorney shall file a petition
2747 to transfer the property in accordance with Section [~~24-2-105~~] [77-11a-205](#).

2748 Section 54. Section **77-11b-302**, which is renumbered from Section 24-4-104 is
2749 renumbered and amended to read:

2750 [~~24-4-104~~]. **77-11b-302. Civil forfeiture of seized property.**

2751 (1) (a) A prosecuting attorney may commence a civil action to forfeit seized property
2752 by filing a complaint.

2753 (b) The complaint under Subsection (1)(a) shall describe with reasonable particularity:

2754 (i) the property that the agency is seeking to forfeit;
2755 (ii) the date and place of seizure; and
2756 (iii) the factual allegations that constitute a basis for forfeiture.

2757 (2) (a) After a complaint is filed, the prosecuting attorney shall serve a copy of the
2758 complaint and summons upon each claimant known to the prosecuting attorney within 30 days
2759 after the day on which the complaint is filed.

2760 (b) The prosecuting attorney is not required to serve a copy of the complaint or the
2761 summons upon a claimant which has disclaimed, in writing, an ownership interest in the seized
2762 property.

2763 (c) Service of the complaint and summons shall be by:
2764 (i) personal service;
2765 (ii) certified mail, with a return receipt requested, to the claimant's known address; or
2766 (iii) service by publication, if the prosecuting attorney demonstrates to the court that
2767 service cannot reasonably be made by personal service or certified mail.

2768 (d) Service by publication shall be by publication of two notices, in two successive
2769 weeks, of the forfeiture proceeding:
2770 (i) in a newspaper of general circulation in the county in which the seizure occurred;
2771 and
2772 (ii) on Utah's Public Legal Notice Website established in Subsection [45-1-101\(2\)\(b\)](#).
2773 (e) Service is effective upon the earlier of:
2774 (i) personal service;
2775 (ii) certified mail; or
2776 (iii) publication in accordance with Subsection (2)(d).

2777 (f) The court may extend the period to complete service under this section for an
2778 additional 60 days if the prosecuting attorney:
2779 (i) moves the court to extend the period to complete service; and
2780 (ii) has shown good cause for extending service.

2781 (3) (a) If a prosecuting attorney files a complaint for forfeiture as described in
2782 Subsection (1), a claimant may file an answer to the complaint.

2783 (b) If a claimant files an answer in accordance with Subsection (3)(a), the claimant
2784 shall file the answer within 30 days after the day on which the complaint is served upon the

2785 claimant.

2786 (c) If an agency is seeking to forfeit property [~~under Section 24-4-103 and the property~~]
2787 that is valued at less than \$10,000, the agency shall return the property to the claimant if:

2788 (i) (A) the prosecuting attorney has filed a forfeiture complaint, and the claimant has
2789 filed an answer, in accordance with Subsections (3)(a) and (b); and

2790 (B) the prosecuting attorney has not filed an information or indictment for the offense
2791 for which the property is seized within 60 days after the day on which the prosecuting attorney
2792 served the claimant with the complaint, or the prosecuting attorney has not timely moved a
2793 court and demonstrated reasonable cause for extending the time to file the information or
2794 indictment; or

2795 (ii) the information or indictment for the offense for which the property was seized was
2796 dismissed and the prosecuting attorney has not refiled the information or indictment within
2797 seven days after the day on which the information or indictment was dismissed.

2798 (d) A claimant is not entitled to any expenses, costs, or attorney fees for the return of
2799 property to the claimant under Subsection (3)(c).

2800 (e) (i) The time limitations in Subsection (3)(c)(i) may be extended for up to 15 days if
2801 a claimant timely seeks to recover possession of seized property in accordance with Section
2802 [~~24-2-108~~] [77-11a-504](#).

2803 (ii) If the time limitations are extended under Subsection (3)(c)(i), the time limitations
2804 in Subsection (3)(c)(i) shall resume immediately upon the agency's or prosecuting attorney's
2805 timely denial of a claim under Section [~~24-2-108~~] [77-11a-504](#) on the merits.

2806 (4) Except as otherwise provided in this chapter, a civil action for a forfeiture
2807 proceeding is governed by the Utah Rules of Civil Procedure.

2808 (5) The court shall:

2809 (a) take all reasonable steps to expedite a civil forfeiture proceeding; and

2810 (b) give a civil forfeiture proceeding the same priority as a criminal case.

2811 (6) A claimant may file an answer to a complaint for civil forfeiture without posting
2812 bond with respect to the property that the agency seeks to forfeit.

2813 (7) A court shall grant an agency's request to forfeit property if the prosecuting attorney
2814 establishes, by clear and convincing evidence, that:

2815 (a) the claimant:

2816 (i) committed the offense subjecting the property to forfeiture under Subsection
2817 ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#);

2818 (ii) knew of the offense subjecting the property to forfeiture under Subsection
2819 ~~24-4-102(1)~~ and allowed the property to be used in furtherance of the offense; or

2820 (iii) acquired the property at the time of the offense subjecting the property to forfeiture
2821 under Subsection ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#), or within a reasonable time after the offense
2822 occurred; or

2823 (b) there is no likely source for the purchase or acquisition of the property other than
2824 the commission of the offense subjecting the property to forfeiture under Subsection
2825 ~~[24-4-102(1)]~~ [77-11a-102\(1\)](#).

2826 (8) If a court finds that the property is the proceeds of an offense that subjects the
2827 proceeds to forfeiture under Subsection ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#), the prosecuting attorney
2828 does not need to prove that the property was the proceeds of a particular exchange or
2829 transaction.

2830 (9) If a claimant is acquitted of the offense subjecting the property to forfeiture under
2831 this section:

2832 (a) (i) the property for which forfeiture is sought shall be returned to the claimant; or
2833 (ii) the open market value of the property for the property for which forfeiture is sought
2834 shall be awarded to the claimant if the property has been disposed of under Section
2835 ~~[24-4-103(3)]~~ [77-11b-202](#); and

2836 (b) any payment requirement under this chapter related to the holding of property shall
2837 be paid to the claimant.

2838 (10) If the prosecuting attorney seeks to discontinue a forfeiture proceeding under this
2839 section and transfer the action to another state or federal agency that has initiated a civil or
2840 criminal proceeding involving the same property, the prosecuting attorney shall file a petition
2841 to transfer the property in accordance with Section ~~[24-2-105]~~ [77-11a-205](#).

2842 (11) A civil forfeiture action under this section may be converted to a criminal
2843 forfeiture action at any time after a prosecuting attorney files a criminal complaint, information,
2844 or indictment for the offense subjecting the property to forfeiture under Subsection
2845 ~~[24-4-102(1)]~~ [77-11b-102\(1\)](#).

2846 Section 55. Section **77-11b-303**, which is renumbered from Section 24-4-113 is

2847 renumbered and amended to read:

2848 ~~[24-4-113]~~. **77-11b-303. Proportionality of forfeiture.**

2849 (1) (a) A claimant's interest in property that is used to facilitate an offense may not be
2850 forfeited under any provision of state law if the forfeiture is substantially disproportionate to
2851 the use of the property in committing or facilitating an offense that is a violation of state law
2852 and the value of the property.

2853 (b) If property is used solely in a manner that is merely incidental and not instrumental
2854 to the commission or facilitation of an offense, a forfeiture of the property is not proportional.

2855 (2) (a) In determining proportionality, the court shall consider:

2856 (i) the offense subjecting the property to forfeiture under Subsection ~~[24-4-102(1)]~~

2857 [77-11b-102\(1\)](#);

2858 (ii) what portion of the forfeiture, if any, is remedial in nature;

2859 (iii) the gravity of the conduct for which the claimant is responsible in light of the
2860 offense; and

2861 (iv) the value of the property.

2862 (b) If the court finds that the forfeiture is substantially disproportional to an offense for
2863 which the claimant is responsible, the court shall reduce or eliminate the forfeiture as the court
2864 finds appropriate.

2865 (3) A prosecuting attorney has the burden of demonstrating that a forfeiture is
2866 proportional to the offense subjecting the property to forfeiture under Subsection ~~[24-4-102(1)]~~

2867 [77-11b-102\(1\)](#).

2868 (4) In all cases, the court shall decide questions of proportionality.

2869 (5) A forfeiture of any proceeds used to facilitate the commission of an offense that is a
2870 violation of federal or state law is proportional.

2871 Section 56. Section **77-11b-304**, which is renumbered from Section 24-4-109 is
2872 renumbered and amended to read:

2873 ~~[24-4-109]~~. **77-11b-304. Postjudgment interest to prevailing party in forfeiture**
2874 **proceeding.**

2875 In a proceeding to forfeit currency or other negotiable instruments under this chapter,
2876 the court shall award postjudgment interest to a prevailing party on the currency or negotiable
2877 instruments at the interest rate established under Section [15-1-4](#).

2878 Section 57. Section **77-11b-305**, which is renumbered from Section 24-4-110 is
2879 renumbered and amended to read:

2880 ~~[24-4-110]~~. **77-11b-305. Attorney fees and costs for forfeiture proceeding.**

2881 (1) In a forfeiture proceeding under this chapter, a court shall award reasonable legal
2882 costs and attorney fees to a prevailing claimant.

2883 (2) If a court awards legal costs and attorney fees to a prevailing claimant under
2884 Subsection (1), the award may not exceed 50% of the value of the seized property.

2885 (3) A claimant who prevails only in part is entitled to recover reasonable legal costs
2886 and attorney fees only on an issue on which the party prevailed.

2887 Section 58. Section **77-11b-306**, which is renumbered from Section 24-4-112 is
2888 renumbered and amended to read:

2889 ~~[24-4-112]~~. **77-11b-306. Limitation on fees for holding seized property subject**
2890 **to forfeiture.**

2891 In any civil or criminal proceeding under this ~~[chapter]~~ part in which a judgment is
2892 entered in favor of a claimant, or where a forfeiture proceeding against a claimant is voluntarily
2893 dismissed by the prosecuting attorney, an agency may not charge a claimant any fee or cost for
2894 holding seized property.

2895 Section 59. Section **77-11b-401**, which is renumbered from Section 24-4-115 is
2896 renumbered and amended to read:

2897 **Part 4. Disposal and Allocation of Forfeited Property**

2898 ~~[24-4-115]~~. **77-11b-401. Disposition and allocation of forfeited property.**

2899 (1) If a court finds that property is forfeited under this chapter, the court shall order the
2900 property forfeited to the state.

2901 (2) (a) If the property is not currency, the agency shall authorize a public or otherwise
2902 commercially reasonable sale of that property if the property is not required by law to be
2903 destroyed and is not harmful to the public.

2904 (b) If the property forfeited is an alcoholic product as defined in Section [32B-1-102](#),
2905 the property shall be disposed of as follows:

2906 (i) an alcoholic product shall be sold if the alcoholic product is:

2907 (A) unadulterated, pure, and free from any crude, unrectified, or impure form of ethylic
2908 alcohol, or any other deleterious substance or liquid; and

2909 (B) otherwise in saleable condition; or

2910 (ii) an alcoholic product and the alcoholic product's package shall be destroyed if the
2911 alcoholic product is impure, adulterated, or otherwise unfit for sale.

2912 (c) If the property forfeited is a cigarette or other tobacco product as defined in Section
2913 [59-14-102](#), the property shall be destroyed, except that the lawful holder of the trademark rights
2914 in the cigarette or tobacco product brand is permitted to inspect the cigarette before the
2915 destruction of the cigarette or tobacco product.

2916 (d) The proceeds of the sale of forfeited property shall remain segregated from other
2917 property, equipment, or assets of the agency until transferred in accordance with this chapter.

2918 (3) Before transferring currency and the proceeds or revenue from the sale of the
2919 property in accordance with this chapter, the agency shall:

2920 (a) deduct the agency's direct costs, expense of reporting under Section [~~24-4-118~~]
2921 [77-11b-404](#), and expense of obtaining and maintaining the property pending a forfeiture
2922 proceeding; and

2923 (b) if the prosecuting agency that employed the prosecuting attorney has met the
2924 requirements of Subsection [~~24-4-119(3)~~] [77-11b-105\(3\)](#), pay the prosecuting attorney the legal
2925 costs associated with the litigation of the forfeiture proceeding, and up to 20% of the value of
2926 the forfeited property in attorney fees.

2927 (4) If the forfeiture arises from a violation relating to wildlife resources, the agency
2928 shall deposit any remaining currency and the proceeds or revenue from the sale of the property
2929 into the Wildlife Resources Account created in Section [23-14-13](#).

2930 (5) The agency shall transfer any remaining currency, the proceeds, or revenue from the
2931 sale of the property to the commission and deposited into the [~~account~~] Criminal Forfeiture
2932 Restricted Account created in Section [77-11b-402](#).

2933 Section 60. Section ~~77-11b-402~~, which is renumbered from Section 24-4-116 is
2934 renumbered and amended to read:

2935 [~~24-4-116~~]. **77-11b-402. Criminal Forfeiture Restricted Account.**

2936 (1) There is created within the General Fund a restricted account known as the
2937 "Criminal Forfeiture Restricted Account."

2938 (2) Except as provided in Section [~~24-4-115~~] [77-11b-401](#), the commission shall deposit
2939 any proceeds from [~~forfeited property and forfeited money~~] property forfeited through a

2940 forfeiture proceeding under this chapter into the [~~account~~] Criminal Forfeiture Restricted
2941 Account.

2942 (3) [~~Money in the account shall be appropriated~~] The Legislature shall appropriate
2943 money in the Criminal Forfeiture Restricted Account to the commission for the purpose of
2944 implementing the [~~program under Section 24-4-117~~] State Asset Forfeiture Grant Program
2945 described in Section 77-11b-403.

2946 Section 61. Section ~~77-11b-403~~, which is renumbered from Section 24-4-117 is
2947 renumbered and amended to read:

2948 [~~24-4-117~~]. **77-11b-403. State Asset Forfeiture Grant Program.**

2949 (1) There is created the State Asset Forfeiture Grant Program.

2950 (2) The program shall fund crime prevention, crime victim reparations, and law
2951 enforcement activities that have the purpose of:

2952 (a) deterring crime by depriving criminals of the profits and proceeds of their illegal
2953 activities;

2954 (b) weakening criminal enterprises by removing the instrumentalities of crime;

2955 (c) reducing crimes involving substance abuse by supporting the creation,
2956 administration, or operation of drug court programs throughout the state;

2957 (d) encouraging cooperation between agencies;

2958 (e) allowing the costs and expenses of law enforcement to be defrayed by the forfeited
2959 proceeds of crime;

2960 (f) increasing the equitability and accountability of the use of forfeited property used to
2961 assist agencies in reducing and preventing crime; and

2962 (g) providing aid to victims of criminally injurious conduct, as defined in Section
2963 63M-7-502, who may be eligible for assistance under Title 63M, Chapter 7, Part 5, Utah Office
2964 for Victims of Crime.

2965 (3) (a) Upon appropriation of funds from the [~~account~~] Criminal Forfeiture Restricted
2966 Account, the commission shall allocate and administer grants to an agency or political
2967 subdivision of the state in compliance with this section and Subsection [~~24-4-119(2)~~]
2968 77-11b-105(2) and to further the program purposes under Subsection (2).

2969 (b) The commission may retain up to 3% of the annual appropriation from the
2970 [~~account~~] Criminal Forfeiture Restricted Account to pay for administrative costs incurred by

2971 the commission, including salary and benefits, equipment, supplies, or travel costs that are
2972 directly related to the administration of the program.

2973 (4) An agency or political subdivision shall apply for an award from the program by
2974 completing and submitting forms specified by the commission.

2975 (5) In granting the awards, the commission shall ensure that the amount of each award
2976 takes into consideration the:

2977 (a) demonstrated needs of the agency or political subdivision;

2978 (b) demonstrated ability of the agency or political subdivision to appropriately use the
2979 award;

2980 (c) degree to which the agency's or political subdivision's need is offset through the
2981 agency's or political subdivision's participation in federal equitable sharing or through other
2982 federal and state grant programs; and

2983 (d) agency's or political subdivision's cooperation with other state and local agencies
2984 and task forces.

2985 (6) The commission may award a grant to any agency or political subdivision engaged
2986 in activities associated with Subsection (2) even if the agency has not contributed to the fund.

2987 (7) An applying agency or political subdivision shall demonstrate compliance with all
2988 reporting and policy requirements applicable under this chapter and under Title 63M, Chapter
2989 7, Criminal Justice and Substance Abuse, in order to qualify as a potential award recipient.

2990 (8) (a) A recipient agency may only use award money after approval by the agency's
2991 legislative body.

2992 (b) The award money is nonlapsing.

2993 (9) A recipient agency or political subdivision shall use an award:

2994 (a) only for law enforcement purposes described in this section, or for victim
2995 reparations as described in Subsection (2)(g); and

2996 (b) for the purposes specified by the agency or political subdivision in the agency's or
2997 political subdivision's application for the award.

2998 (10) A permissible law enforcement purpose for which award money may be used
2999 includes:

3000 (a) controlled substance interdiction and enforcement activities;

3001 (b) drug court programs;

- 3002 (c) activities calculated to enhance future law enforcement investigations;
- 3003 (d) law enforcement training that includes:
- 3004 (i) implementation of the Fourth Amendment to the United States Constitution and
- 3005 Utah Constitution, Article I, Section 7, and that addresses the protection of the individual's
- 3006 right of due process;
- 3007 (ii) protection of the rights of innocent property holders; and
- 3008 (iii) the Tenth Amendment to the United States Constitution regarding states'
- 3009 sovereignty and the states' reserved rights;
- 3010 (e) law enforcement or detention facilities;
- 3011 (f) law enforcement operations or equipment that are not routine costs or operational
- 3012 expenses;
- 3013 (g) drug, gang, or crime prevention education programs that are sponsored in whole or
- 3014 in part by the law enforcement agency or its legislative body;
- 3015 (h) matching funds for other state or federal law enforcement grants; and
- 3016 (i) the payment of legal costs, attorney fees, and postjudgment interest in forfeiture
- 3017 actions.

3018 (11) A law enforcement purpose for which award money may not be granted or used

3019 includes:

- 3020 (a) payment of salaries, retirement benefits, or bonuses to any individual;
- 3021 (b) payment of expenses not related to law enforcement;
- 3022 (c) uses not specified in the agency's award application;
- 3023 (d) uses not approved by the agency's legislative body;
- 3024 (e) payments, transfers, or pass-through funding to an entity other than an agency; or
- 3025 (f) uses, payments, or expenses that are not within the scope of the agency's functions.

3026 Section 62. Section ~~77-11b-404~~, which is renumbered from Section 24-4-118 is

3027 renumbered and amended to read:

3028 ~~[24-4-118]~~. 77-11b-404. **Forfeiture reporting requirements.**

- 3029 (1) An agency shall provide all reasonably available data described in Subsection (5):
- 3030 (a) if transferring the forfeited property resulting from the final disposition of any civil
- 3031 or criminal forfeiture matter to the commission as required under Subsection ~~[24-4-115(5)]~~
- 3032 77-11b-401(5); or

3033 (b) if the agency has been awarded an equitable share of property forfeited by the
3034 federal government.

3035 (2) The commission shall develop a standardized report format that each agency shall
3036 use in reporting the data required under this section.

3037 (3) The commission shall annually, on or before April 30, prepare a summary report of
3038 the case data submitted by each agency under Subsection (1) during the prior calendar year.

3039 (4) (a) If an agency does not comply with the reporting requirements under this section,
3040 the commission shall contact the agency and request that the agency comply with the required
3041 reporting provisions.

3042 (b) If an agency fails to comply with the reporting requirements under this section
3043 within 30 days after receiving the request to comply, the commission shall report the
3044 noncompliance to the attorney general, the speaker of the House of Representatives, and the
3045 president of the Senate.

3046 (5) The data for any civil or criminal forfeiture matter for which final disposition has
3047 been made under Subsection (1) shall include:

3048 (a) the agency that conducted the seizure;

3049 (b) the case number or other identification;

3050 (c) the date or dates on which the seizure was conducted;

3051 (d) the number of individuals having a known property interest in each seizure of
3052 property;

3053 (e) the type of property seized;

3054 (f) the alleged offense that was the cause for seizure of the property;

3055 (g) whether any criminal charges were filed regarding the alleged offense, and if so, the
3056 final disposition of each charge, including the conviction, acquittal, or dismissal, or whether
3057 action on a charge is pending;

3058 (h) the type of enforcement action that resulted in the seizure, including an
3059 enforcement stop, a search warrant, or an arrest warrant;

3060 (i) whether the forfeiture procedure was civil or criminal;

3061 (j) the value of the property seized, including currency and the estimated market value
3062 of any tangible property;

3063 (k) the final disposition of the matter, including whether final disposition was entered

3064 by stipulation of the parties, including the amount of property returned to any claimant, by
3065 default, by summary judgment, by jury award, or by guilty plea or verdict in a criminal
3066 forfeiture;

3067 (l) if the property was forfeited by the federal government, the amount of forfeited
3068 money awarded to the agency;

3069 (m) the agency's direct costs, expense of reporting under this section, and expenses for
3070 obtaining and maintaining the seized property, as described in Subsection [~~24-4-115(3)(a)~~]
3071 [77-11b-401\(3\)\(a\)](#);

3072 (n) the legal costs and attorney fees paid to the prosecuting attorney, as described in
3073 Subsection [~~24-4-115(3)(b)~~] [77-11b-401\(3\)\(b\)](#); and

3074 (o) if the property was transferred to a federal agency or any governmental entity not
3075 created under and subject to state law:

3076 (i) the date of the transfer;

3077 (ii) the name of the federal agency or entity to which the property was transferred;

3078 (iii) a reference to which reason under Subsection [~~24-2-106(3)~~] [77-11a-205\(3\)](#)
3079 justified the transfer;

3080 (iv) the court or agency where the forfeiture case was heard;

3081 (v) the date of the order of transfer of the property; and

3082 (vi) the value of the property transferred to the federal agency, including currency and
3083 the estimated market value of any tangible property.

3084 (6) An agency shall annually on or before April 30 submit a report for the prior
3085 calendar year to the commission that states:

3086 (a) whether the agency received an award from the State Asset Forfeiture Grant
3087 Program under Section [~~24-4-117~~] [77-11b-403](#) and, if so, the following information for each
3088 award:

3089 (i) the amount of the award;

3090 (ii) the date of the award;

3091 (iii) how the award was used or is planned to be used; and

3092 (iv) a statement signed by both the agency's executive officer or designee and by the
3093 agency's legal counsel, that:

3094 (A) the agency has complied with all inventory, policy, and reporting requirements

3095 under Section [~~24-4-117~~] [77-11b-403](#); and

3096 (B) all awards were used for crime reduction or law enforcement purposes as specified
3097 in the application and that the awards were used only upon approval by the agency's legislative
3098 body; and

3099 (b) whether the agency received any property, money, or other things of value in
3100 accordance with federal law as described in Subsection [~~24-2-105(7)~~] [77-11a-205\(7\)](#) and, if so,
3101 the following information for each piece of property, money, or other thing of value:

3102 (i) the case number or other case identification;

3103 (ii) the value of the award and the property, money, or other things of value received by
3104 the agency;

3105 (iii) the date of the award;

3106 (iv) the identity of any federal agency involved in the forfeiture;

3107 (v) how the awarded property has been used or is planned to be used; and

3108 (vi) a statement signed by both the agency's executive officer or designee and by the
3109 agency's legal counsel, that the agency has only used the award for crime reduction or law
3110 enforcement purposes authorized under Section [~~24-4-117~~] [77-11b-403](#), and that the award was
3111 used only upon approval by the agency's legislative body.

3112 (7) (a) On or before July 1 of each year, the commission shall submit notice of the
3113 annual reports in Subsection (3) and Subsection (6), in electronic format, to:

3114 (i) the attorney general;

3115 (ii) the speaker of the House of Representatives, for referral to any House standing or
3116 interim committees with oversight over law enforcement and criminal justice;

3117 (iii) the president of the Senate, for referral to any Senate standing or interim
3118 committees with oversight over law enforcement and criminal justice; and

3119 (iv) each law enforcement agency.

3120 (b) The reports described in Subsection (3) and Subsection (6), as well as the
3121 individual case data described in Subsection (1) for the previous calendar year, shall be
3122 published on the Utah Open Government website at open.utah.gov on or before July 15 of each
3123 year.

3124 Section 63. Section **77-11c-101**, which is renumbered from Section 77-24a-1 is
3125 renumbered and amended to read:

3126 **CHAPTER 11c. LOST OR MISLAID PROPERTY**

3127 ~~[77-24a-1].~~ **77-11c-101. Definitions.**

3128 As used in this chapter:

3129 (1) "Lost or mislaid property":

3130 (a) means any property that comes into the possession of a peace officer or law
3131 enforcement agency:

3132 (i) that is not claimed by anyone who is identified as the owner of the property; or

3133 (ii) for which no owner or interest holder can be found after a reasonable and diligent
3134 search;

3135 (b) includes any property received by a peace officer or law enforcement agency from a
3136 person claiming to have found the property; and

3137 (c) does not include property seized by a peace officer [~~pursuant to Title 24, Forfeiture
3138 and Disposition of Property Act~~] in accordance with Chapter 11a, Seizure and Retention of
3139 Property and Contraband.

3140 (2) "Public interest use" means:

3141 (a) use by a governmental agency as determined by the agency's legislative body; or

3142 (b) donation to a nonprofit charity registered with the state.

3143 Section 64. Section **77-11c-102**, which is renumbered from Section 77-24a-2 is
3144 renumbered and amended to read:

3145 ~~[77-24a-2].~~ **77-11c-102. Disposition by police agency.**

3146 All lost or mislaid property coming into the possession of a peace officer or law
3147 enforcement agency shall be turned over to, held, and disposed of only by the local law
3148 enforcement agency whose authority extends to the area where the item was found.

3149 Section 65. Section **77-11c-103**, which is renumbered from Section 77-24a-3 is
3150 renumbered and amended to read:

3151 ~~[77-24a-3].~~ **77-11c-103. Statement of finder of property.**

3152 (1) A person who finds lost or mislaid property and delivers it to a local law
3153 enforcement agency shall sign a statement included in a form provided by the agency, stating:

3154 (a) the manner in which the property came into the person's possession, including the
3155 time, date, and place;

3156 (b) that the person does not know who owns the property;

3157 (c) that, to the person's knowledge, the property was not stolen;
3158 (d) that the person's possession of the property is not unlawful; and
3159 (e) any information the person is aware of which could lead to a determination of the
3160 owner.

3161 (2) Additional information may be requested by the agency receiving the property, as
3162 necessary.

3163 Section 66. Section **77-11c-104**, which is renumbered from Section 77-24a-4 is
3164 renumbered and amended to read:

3165 ~~[77-24a-4]~~. **77-11c-104. Locating owner of property.**

3166 (1) The local law enforcement agency shall take reasonable steps to determine the
3167 identity and location of the owner, and notify the owner that the property is in custody.

3168 (2) The owner may obtain the property only by providing personal identification,
3169 identifying the property, and paying any costs incurred by the agency, including costs for
3170 advertising or storage.

3171 Section 67. Section **77-11c-105**, which is renumbered from Section 77-24a-5 is
3172 renumbered and amended to read:

3173 ~~[77-24a-5]~~. **77-11c-105. Disposition of unclaimed property.**

3174 (1) (a) If the owner of any lost or mislaid property cannot be determined or notified, or
3175 if the owner of the property is determined and notified, and fails to appear and claim the
3176 property after three months of [its] the property's receipt by the local law enforcement agency,
3177 the agency shall:

3178 (i) publish notice of the intent to dispose of the unclaimed property on Utah's Public
3179 Legal Notice Website established in Subsection [45-1-101\(2\)\(b\)](#);

3180 (ii) post a similar notice on the public website of the political subdivision within which
3181 the law enforcement agency is located; and

3182 (iii) post a similar notice in a public place designated for notice within the law
3183 enforcement agency.

3184 (b) The notice shall:

3185 (i) give a general description of the item; and

3186 (ii) the date of intended disposition.

3187 (c) The agency may not dispose of the lost or mislaid property until at least eight days

3188 after the date of publication and posting.

3189 (2) (a) If no claim is made for the lost or mislaid property within nine days of
3190 publication and posting, the agency shall notify the person who turned the property over to the
3191 local law enforcement agency, if it was turned over by a person under Section [\[77-24a-3\]](#)
3192 [77-11c-103](#).

3193 (b) Except as provided in Subsection (4), if that person has complied with the
3194 provisions of this chapter, the person may take the lost or mislaid property if the person:

3195 (i) pays the costs incurred for advertising and storage; and

3196 (ii) signs a receipt for the item.

3197 (3) If the person who found the lost or mislaid property fails to take the property under
3198 the provisions of this chapter, the agency shall:

3199 (a) apply the property to a public interest use as provided in Subsection (4);

3200 (b) sell the property at public auction and apply the proceeds of the sale to a public
3201 interest use; or

3202 (c) destroy the property if it is unfit for a public interest use or sale.

3203 (4) Before applying the lost or mislaid property to a public interest use, the agency
3204 having possession of the property shall obtain from the agency's legislative body:

3205 (a) permission to apply the property to a public interest use; and

3206 (b) the designation and approval of the public interest use of the property.

3207 (5) Any person employed by a law enforcement agency who finds property may not
3208 claim or receive property under this section.

3209 Section 68. Section **77-37-3** is amended to read:

3210 **77-37-3. Bill of rights.**

3211 (1) The bill of rights for victims and witnesses is:

3212 (a) Victims and witnesses have a right to be informed as to the level of protection from
3213 intimidation and harm available to them, and from what sources, as they participate in criminal
3214 justice proceedings as designated by Section [76-8-508](#), regarding witness tampering, and
3215 Section [76-8-509](#), regarding threats against a victim. Law enforcement, prosecution, and
3216 corrections personnel have the duty to timely provide this information in a form which is useful
3217 to the victim.

3218 (b) Victims and witnesses, including children and their guardians, have a right to be

3219 informed and assisted as to their role in the criminal justice process. All criminal justice
3220 agencies have the duty to provide this information and assistance.

3221 (c) Victims and witnesses have a right to clear explanations regarding relevant legal
3222 proceedings; these explanations shall be appropriate to the age of child victims and witnesses.
3223 All criminal justice agencies have the duty to provide these explanations.

3224 (d) Victims and witnesses should have a secure waiting area that does not require them
3225 to be in close proximity to defendants or the family and friends of defendants. Agencies
3226 controlling facilities shall, whenever possible, provide this area.

3227 (e) Victims may seek restitution or reparations, including medical costs, as provided in
3228 Title 63M, Chapter 7, Criminal Justice and Substance Abuse, Title 77, Chapter 38b, Crime
3229 Victims Restitution Act, and Section 80-6-710. State and local government agencies that serve
3230 victims have the duty to have a functional knowledge of the procedures established by the
3231 Crime Victim Reparations Board and to inform victims of these procedures.

3232 (f) Victims and witnesses have a right to have any personal property returned as
3233 provided in [~~Sections 77-24a-1 through 77-24a-5~~] Chapter 11a, Seizure and Retention of
3234 Property and Contraband, and Chapter 11c, Lost or Mislaid Property. Criminal justice agencies
3235 shall expeditiously return the property when it is no longer needed for court law enforcement or
3236 prosecution purposes.

3237 (g) Victims and witnesses have the right to reasonable employer intercession services,
3238 including pursuing employer cooperation in minimizing employees' loss of pay and other
3239 benefits resulting from their participation in the criminal justice process. Officers of the court
3240 shall provide these services and shall consider victims' and witnesses' schedules so that
3241 activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may
3242 request that the responsible agency intercede with employers or other parties.

3243 (h) Victims and witnesses, particularly children, should have a speedy disposition of
3244 the entire criminal justice process. All involved public agencies shall establish policies and
3245 procedures to encourage speedy disposition of criminal cases.

3246 (i) Victims and witnesses have the right to timely notice of judicial proceedings they
3247 are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies
3248 have the duty to provide these notifications. Defense counsel and others have the duty to
3249 provide timely notice to prosecution of any continuances or other changes that may be required.

- 3250 (j) Victims of sexual offenses have the following rights:
- 3251 (i) the right to request voluntary testing for themselves for HIV infection as provided in
- 3252 Section 53-10-803 and to request mandatory testing of the alleged sexual offender for HIV
- 3253 infection as provided in Section 53-10-802;
- 3254 (ii) the right to be informed whether a DNA profile was obtained from the testing of
- 3255 the rape kit evidence or from other crime scene evidence;
- 3256 (iii) the right to be informed whether a DNA profile developed from the rape kit
- 3257 evidence or other crime scene evidence has been entered into the Utah Combined DNA Index
- 3258 System;
- 3259 (iv) the right to be informed whether there is a match between a DNA profile
- 3260 developed from the rape kit evidence or other crime scene evidence and a DNA profile
- 3261 contained in the Utah Combined DNA Index System, provided that disclosure would not
- 3262 impede or compromise an ongoing investigation; and
- 3263 (v) the right to designate a person of the victim's choosing to act as a recipient of the
- 3264 information provided under this Subsection (1)(j) and under Subsections (2) and (3).
- 3265 (k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency
- 3266 communicate with the victim or the victim's designee regarding the status of DNA testing,
- 3267 absent a specific request received from the victim or the victim's designee.
- 3268 (2) The law enforcement agency investigating a sexual offense may:
- 3269 (a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the
- 3270 request of a victim or the victim's designee and is the designated agency to provide that
- 3271 information to the victim or the victim's designee;
- 3272 (b) require that the victim's request be in writing; and
- 3273 (c) respond to the victim's request with verbal communication, written communication,
- 3274 or by email, if an email address is available.
- 3275 (3) The law enforcement agency investigating a sexual offense has the following
- 3276 authority and responsibilities:
- 3277 (a) If the law enforcement agency determines that DNA evidence will not be analyzed
- 3278 in a case where the identity of the perpetrator has not been confirmed, the law enforcement
- 3279 agency shall notify the victim or the victim's designee.
- 3280 (b) (i) If the law enforcement agency intends to destroy or dispose of rape kit evidence

3281 or other crime scene evidence from an unsolved sexual assault case, the law enforcement
3282 agency shall provide written notification of that intention and information on how to appeal the
3283 decision to the victim or the victim's designee of that intention.

3284 (ii) Written notification under this Subsection (3) shall be made not fewer than 60 days
3285 prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.

3286 (c) A law enforcement agency responsible for providing information under Subsections
3287 (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the
3288 victim or the victim's designee, shall advise the victim or the victim's designee of any
3289 significant changes in the information of which the law enforcement agency is aware.

3290 (d) The law enforcement agency investigating the sexual offense is responsible for
3291 informing the victim or the victim's designee of the rights established under Subsections
3292 (1)(j)(ii) through (iv) and (2), and this Subsection (3).

3293 (4) Informational rights of the victim under this chapter are based upon the victim
3294 providing the current name, address, telephone number, and email address, if an email address
3295 is available, of the person to whom the information should be provided to the criminal justice
3296 agencies involved in the case.

3297 Section 69. Section **78B-9-104** is amended to read:

3298 **78B-9-104. Grounds for relief -- Retroactivity of rule.**

3299 (1) Unless precluded by Section [78B-9-106](#) or [78B-9-107](#), an individual who has been
3300 convicted and sentenced for a criminal offense may file an action in the district court of
3301 original jurisdiction for postconviction relief to vacate or modify the conviction or sentence
3302 upon the following grounds:

3303 (a) the conviction was obtained or the sentence was imposed in violation of the United
3304 States Constitution or Utah Constitution;

3305 (b) the conviction was obtained or the sentence was imposed under a statute that is in
3306 violation of the United States Constitution or Utah Constitution, or the conduct for which the
3307 petitioner was prosecuted is constitutionally protected;

3308 (c) the sentence was imposed or probation was revoked in violation of the controlling
3309 statutory provisions;

3310 (d) the petitioner had ineffective assistance of counsel in violation of the United States
3311 Constitution or Utah Constitution;

3312 (e) newly discovered material evidence exists that requires the court to vacate the
3313 conviction or sentence, because:

3314 (i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of
3315 trial or sentencing or in time to include the evidence in any previously filed post-trial motion or
3316 postconviction proceeding, and the evidence could not have been discovered through the
3317 exercise of reasonable diligence;

3318 (ii) the material evidence is not merely cumulative of evidence that was known;

3319 (iii) the material evidence is not merely impeachment evidence; and

3320 (iv) viewed with all the other evidence, the newly discovered material evidence
3321 demonstrates that no reasonable trier of fact could have found the petitioner guilty of the
3322 offense or subject to the sentence received;

3323 (f) the petitioner can prove that:

3324 (i) biological evidence, as that term is defined in Section ~~[53-20-101]~~ [77-11a-101](#),
3325 relevant to the petitioner's conviction was not preserved in accordance with ~~[Title 53, Chapter~~
3326 ~~20, Forensic Biological Evidence Preservation]~~ Title 77, Chapter 11a, Part 4, Preservation of
3327 Biological Evidence for Violent Felony Offenses;

3328 (ii) (A) the biological evidence described in Subsection (1)(f)(i) was not tested
3329 previously; or

3330 (B) if the biological evidence described in Subsection (1)(f)(i) was tested previously,
3331 there is a material change in circumstance, including a scientific or technological advance, that
3332 would make it plausible that a test of the biological evidence described in Subsection (1)(f)(i)
3333 would produce a favorable test result for the petitioner; and

3334 (iii) a favorable result described in Subsection (1)(f)(ii), which is presumed for
3335 purposes of the petitioner's action under this section, when viewed with all the other evidence,
3336 demonstrates a reasonable probability of a more favorable outcome at trial for the petitioner;

3337 (g) the petitioner can prove entitlement to relief under a rule announced by the United
3338 States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction
3339 and sentence became final on direct appeal, and that:

3340 (i) the rule was dictated by precedent existing at the time the petitioner's conviction or
3341 sentence became final; or

3342 (ii) the rule decriminalizes the conduct that comprises the elements of the crime for

3343 which the petitioner was convicted; or

3344 (h) the petitioner committed any of the following offenses while subject to force, fraud,
3345 or coercion, as defined in Section 76-5-308:

3346 (i) Section 58-37-8, possession of a controlled substance;

3347 (ii) Section 76-10-1304, aiding prostitution;

3348 (iii) Section 76-6-206, criminal trespass;

3349 (iv) Section 76-6-413, theft;

3350 (v) Section 76-6-502, possession of forged writing or device for writing;

3351 (vi) Sections 76-6-602 through 76-6-608, retail theft;

3352 (vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification
3353 document;

3354 (viii) Section 76-9-702, lewdness;

3355 (ix) Section 76-10-1302, prostitution; or

3356 (x) Section 76-10-1313, sexual solicitation.

3357 (2) The court may not grant relief from a conviction or sentence unless in light of the
3358 facts proved in the postconviction proceeding, viewed with the evidence and facts introduced at
3359 trial or during sentencing:

3360 (a) the petitioner establishes that there would be a reasonable likelihood of a more
3361 favorable outcome; or

3362 (b) if the petitioner challenges the conviction or the sentence on grounds that the
3363 prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner
3364 establishes that the false testimony, in any reasonable likelihood, could have affected the
3365 judgment of the fact finder.

3366 (3) (a) The court may not grant relief from a conviction based on a claim that the
3367 petitioner is innocent of the crime for which convicted except as provided in Part 3,
3368 Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

3369 (b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction
3370 Determination of Factual Innocence, of this chapter may not be filed as part of a petition under
3371 this part, but shall be filed separately and in conformity with the provisions of Part 3,
3372 Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

3373 Section 70. **Repealer.**

- 3374 This bill repeals:
- 3375 Section **24-1-101, Title.**
- 3376 Section **24-2-101, Title.**
- 3377 Section **24-2-106, Retention of property.**
- 3378 Section **24-3-101, Title.**
- 3379 Section **24-4-101, Title.**
- 3380 Section **53-20-101, Definitions.**