

**HEALTH AND HUMAN SERVICES RECODIFICATION -
CROSS REFERENCES, TITLES 63J-80**

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill updates cross-references to the Utah Health and Human Services Code in Titles 63J through 80.

Highlighted Provisions:

This bill:

- ▶ makes technical updates in Titles 63J through 80 to cross references to the Utah Health and Human Services Code that are renumbered and amended in:
 - S.B. 38, Health and Human Services Recodification - Administration, Licensing, and Recovery Services;
 - S.B. 39, Health and Human Services Recodification - Prevention, Supports, Substance Use and Mental Health;
 - S.B. 40, Health and Human Services Recodification - Health Care Assistance and Data; and
 - S.B. 41, Health and Human Services Recodification - Health Care Delivery and Repeals; and
- ▶ makes technical and corresponding changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 This bill provides revisor instructions.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **63J-1-601**, as last amended by Laws of Utah 2022, Chapters 68, 451

32 **63J-1-602.1**, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415,
33 and 451

34 **63J-1-602.2**, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236,
35 242, and 447 and last amended by Coordination Clause, Laws of Utah 2022,
36 Chapter 154

37 **63J-5-206**, as last amended by Laws of Utah 2018, Chapter 467

38 **63J-7-102**, as last amended by Laws of Utah 2022, Chapters 224, 451 and 456

39 **63M-7-204**, as last amended by Laws of Utah 2022, Chapter 187

40 **63M-7-209**, as last amended by Laws of Utah 2022, Chapter 36

41 **63M-7-216**, as enacted by Laws of Utah 2020, Chapter 200

42 **63M-7-301**, as last amended by Laws of Utah 2022, Chapter 255

43 **63M-7-303**, as last amended by Laws of Utah 2022, Chapter 211

44 **63M-13-202**, as last amended by Laws of Utah 2020, Chapter 354

45 **64-13-37**, as enacted by Laws of Utah 1993, Chapter 277

46 **64-13-39**, as enacted by Laws of Utah 1995, Chapter 353

47 **64-13-39.5**, as last amended by Laws of Utah 2009, Chapter 355

48 **64-13-44**, as enacted by Laws of Utah 2013, Chapter 256

49 **67-3-1**, as last amended by Laws of Utah 2022, Chapter 307

50 **67-3-11**, as last amended by Laws of Utah 2022, Chapter 255

51 **67-5-1**, as last amended by Laws of Utah 2022, Chapter 222

52 **67-5-16**, as last amended by Laws of Utah 2022, Chapter 335

53 **67-20-2**, as last amended by Laws of Utah 2022, Chapters 346, 347 and last amended
54 by Coordination Clause, Laws of Utah 2022, Chapter 347

55 **71-11-5**, as last amended by Laws of Utah 2018, Chapter 39

56 **72-6-107.5**, as last amended by Laws of Utah 2022, Chapters 421, 443

57 **72-9-103**, as last amended by Laws of Utah 2017, Chapter 96

58 **72-10-502**, as last amended by Laws of Utah 2018, Chapter 35

- 59 [75-1-107](#), as last amended by Laws of Utah 2003, Chapter 49
- 60 [75-2a-103](#), as last amended by Laws of Utah 2022, Chapter 277
- 61 [75-2a-106](#), as last amended by Laws of Utah 2021, Chapter 223
- 62 [75-3-104.5](#), as last amended by Laws of Utah 2020, Chapter 205
- 63 [75-3-803](#), as last amended by Laws of Utah 2018, Chapter 443
- 64 [75-3-805](#), as last amended by Laws of Utah 2018, Chapter 443
- 65 [75-5-309](#), as last amended by Laws of Utah 2018, Chapter 455
- 66 [75-5-311](#), as last amended by Laws of Utah 2018, Chapter 455
- 67 [75-7-508](#), as last amended by Laws of Utah 2018, Chapter 443
- 68 [75-7-509](#), as last amended by Laws of Utah 2004, Chapters 72, 90 and renumbered and
- 69 amended by Laws of Utah 2004, Chapter 89
- 70 [75-7-511](#), as last amended by Laws of Utah 2018, Chapter 443
- 71 [76-3-203.11](#), as last amended by Laws of Utah 2020, Chapter 131
- 72 [76-5-102.6](#), as last amended by Laws of Utah 2022, Chapter 181
- 73 [76-5-102.7](#), as last amended by Laws of Utah 2022, Chapters 117, 181
- 74 [76-5-102.9](#), as last amended by Laws of Utah 2022, Chapter 181
- 75 [76-5-112.5](#), as last amended by Laws of Utah 2022, Chapter 181
- 76 [76-5-113](#), as last amended by Laws of Utah 2022, Chapter 181
- 77 [76-5-412](#), as last amended by Laws of Utah 2022, Chapter 181
- 78 [76-5b-201](#), as last amended by Laws of Utah 2022, Chapters 181, 185
- 79 [76-6-106](#), as last amended by Laws of Utah 2012, Chapter 135
- 80 [76-6-702](#), as last amended by Laws of Utah 2017, Chapters 462, 467
- 81 [76-7-301](#), as last amended by Laws of Utah 2021, Chapter 262
- 82 [76-7-305](#), as last amended by Laws of Utah 2022, Chapter 181
- 83 [76-7-305.5](#), as last amended by Laws of Utah 2020, Chapter 251
- 84 [76-7-306](#), as repealed and reenacted by Laws of Utah 2011, Chapter 277
- 85 [76-7-313](#), as last amended by Laws of Utah 2019, Chapters 124, 208
- 86 [76-7-314](#), as last amended by Laws of Utah 2019, Chapter 208
- 87 [76-8-311.1](#), as last amended by Laws of Utah 2020, Chapter 396
- 88 [76-8-311.3](#), as last amended by Laws of Utah 2020, Chapters 302, 347
- 89 [76-8-1202](#), as last amended by Laws of Utah 1997, Chapter 174

- 90 [76-9-307](#), as last amended by Laws of Utah 2009, Chapter 110
- 91 [76-9-704](#), as last amended by Laws of Utah 2007, Chapters 60, 231
- 92 [76-10-101](#), as last amended by Laws of Utah 2022, Chapter 199
- 93 [76-10-526](#), as last amended by Laws of Utah 2021, Chapters 166, 277
- 94 [76-10-528](#), as last amended by Laws of Utah 2022, Chapter 159
- 95 [76-10-1311](#), as last amended by Laws of Utah 2008, Chapter 382
- 96 [76-10-1312](#), as last amended by Laws of Utah 2011, Chapter 70
- 97 [76-10-1602](#), as last amended by Laws of Utah 2022, Chapters 181, 185
- 98 [76-10-2204](#), as enacted by Laws of Utah 2019, Chapter 377
- 99 [76-10-3105](#), as renumbered and amended by Laws of Utah 2013, Chapter 187
- 100 [77-15-6](#), as last amended by Laws of Utah 2018, Chapter 147
- 101 [77-15a-104](#), as last amended by Laws of Utah 2018, Chapter 281
- 102 [77-15a-105](#), as enacted by Laws of Utah 2003, Chapter 11
- 103 [77-16a-101](#), as last amended by Laws of Utah 2011, Chapter 366
- 104 [77-16a-202](#), as last amended by Laws of Utah 2011, Chapter 366
- 105 [77-16a-203](#), as last amended by Laws of Utah 2011, Chapter 366
- 106 [77-16a-204](#), as last amended by Laws of Utah 2011, Chapter 366
- 107 [77-16a-302](#), as last amended by Laws of Utah 2011, Chapter 366
- 108 [77-18-102](#), as enacted by Laws of Utah 2021, Chapter 260
- 109 [77-18-106](#), as enacted by Laws of Utah 2021, Chapter 260
- 110 [77-19-204](#), as enacted by Laws of Utah 2004, Chapter 137
- 111 [77-19-205](#), as enacted by Laws of Utah 2004, Chapter 137
- 112 [77-19-206](#), as enacted by Laws of Utah 2004, Chapter 137
- 113 [77-23-213](#), as last amended by Laws of Utah 2019, Chapter 349
- 114 [77-32b-103](#), as last amended by Laws of Utah 2022, Chapters 328, 359
- 115 [77-40a-305](#), as last amended by Laws of Utah 2022, Chapter 384 and renumbered and
- 116 amended by Laws of Utah 2022, Chapter 250
- 117 [77-40a-306](#), as enacted by Laws of Utah 2022, Chapter 250
- 118 [78A-2-231](#), as last amended by Laws of Utah 2022, Chapter 256
- 119 [78A-2-301](#), as last amended by Laws of Utah 2022, Chapters 276, 384
- 120 [78A-5-201](#), as last amended by Laws of Utah 2022, Chapter 187

- 121 [78A-6-103](#), as last amended by Laws of Utah 2022, Chapters 155, 335
- 122 [78A-6-208](#), as last amended by Laws of Utah 2021, Chapter 261
- 123 [78A-6-209](#), as last amended by Laws of Utah 2022, Chapters 335, 430
- 124 [78A-6-356](#), as last amended by Laws of Utah 2022, Chapters 334, 470
- 125 [78B-3-403](#), as last amended by Laws of Utah 2022, Chapters 356, 415
- 126 [78B-3-405](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 127 [78B-3-701](#), as last amended by Laws of Utah 2009, Chapter 110
- 128 [78B-4-501](#), as last amended by Laws of Utah 2018, Chapter 62
- 129 [78B-5-618](#), as last amended by Laws of Utah 2022, Chapter 327
- 130 [78B-5-902](#), as last amended by Laws of Utah 2022, Chapter 255
- 131 [78B-5-904](#), as enacted by Laws of Utah 2021, Chapter 208
- 132 [78B-6-103](#), as last amended by Laws of Utah 2022, Chapter 335
- 133 [78B-6-113](#), as last amended by Laws of Utah 2017, Chapter 280
- 134 [78B-6-124](#), as last amended by Laws of Utah 2022, Chapter 335
- 135 [78B-6-128](#), as last amended by Laws of Utah 2022, Chapter 335
- 136 [78B-6-131](#), as last amended by Laws of Utah 2022, Chapter 335
- 137 [78B-6-142](#), as last amended by Laws of Utah 2020, Chapter 201
- 138 [78B-7-205](#), as last amended by Laws of Utah 2020, Chapter 142
- 139 [78B-7-603](#), as last amended by Laws of Utah 2022, Chapter 142
- 140 [78B-8-401](#), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 16
- 141 [78B-8-402](#), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 16
- 142 [78B-8-404](#), as last amended by Laws of Utah 2017, Chapter 185
- 143 [78B-10-106](#), as last amended by Laws of Utah 2022, Chapter 335
- 144 [78B-12-102](#), as last amended by Laws of Utah 2021, Chapter 111
- 145 [78B-12-111](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 146 [78B-12-112](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 147 [78B-12-113](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 148 [78B-12-216](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 149 [78B-12-402](#), as last amended by Laws of Utah 2019, Chapter 136
- 150 [78B-14-103](#), as and further amended by Revisor Instructions, Laws of Utah 2013,
- 151 Chapter 245

152 **78B-14-501**, as renumbered and amended by Laws of Utah 2008, Chapter 3
153 **78B-14-605**, as last amended by Laws of Utah 2015, Chapter 45
154 **78B-14-703**, as and further amended by Revisor Instructions, Laws of Utah 2013,
155 Chapter 245
156 **78B-14-704**, as and further amended by Revisor Instructions, Laws of Utah 2013,
157 Chapter 245
158 **78B-15-104**, as last amended by Laws of Utah 2021, Chapter 261
159 **78B-15-107**, as renumbered and amended by Laws of Utah 2008, Chapter 3
160 **78B-24-203**, as enacted by Laws of Utah 2022, Chapter 326
161 **78B-24-307**, as enacted by Laws of Utah 2022, Chapter 326
162 **78B-24-308**, as enacted by Laws of Utah 2022, Chapter 326
163 **79-2-404**, as last amended by Laws of Utah 2022, Chapters 421, 443
164 **80-1-102**, as last amended by Laws of Utah 2022, Chapters 155, 185, 217, 255, 326,
165 334, and 430
166 **80-1-103**, as renumbered and amended by Laws of Utah 2021, Chapter 261
167 **80-2-501**, as renumbered and amended by Laws of Utah 2022, Chapter 334
168 **80-2-603**, as renumbered and amended by Laws of Utah 2022, Chapter 334
169 **80-2-604**, as renumbered and amended by Laws of Utah 2022, Chapter 334
170 **80-2-802**, as enacted by Laws of Utah 2022, Chapter 334
171 **80-2-803**, as enacted by Laws of Utah 2022, Chapter 334
172 **80-2-804**, as renumbered and amended by Laws of Utah 2022, Chapter 334
173 **80-2-909**, as renumbered and amended by Laws of Utah 2022, Chapter 334
174 **80-2-1001**, as renumbered and amended by Laws of Utah 2022, Chapter 334
175 **80-2-1002**, as renumbered and amended by Laws of Utah 2022, Chapter 334
176 **80-2-1005**, as last amended by Laws of Utah 2022, Chapters 187, 255 and 430 and
177 renumbered and amended by Laws of Utah 2022, Chapter 334
178 **80-2a-202**, as renumbered and amended by Laws of Utah 2022, Chapter 334
179 **80-2a-301**, as last amended by Laws of Utah 2022, Chapter 287 and renumbered and
180 amended by Laws of Utah 2022, Chapter 334 and last amended by Coordination
181 Clause, Laws of Utah 2022, Chapter 334
182 **80-3-110**, as last amended by Laws of Utah 2022, Chapter 256

- 183 **80-3-204**, as last amended by Laws of Utah 2022, Chapter 335
- 184 **80-3-302**, as last amended by Laws of Utah 2022, Chapters 287, 334
- 185 **80-3-305**, as last amended by Laws of Utah 2022, Chapter 334
- 186 **80-3-404**, as last amended by Laws of Utah 2022, Chapters 255, 334
- 187 **80-3-405**, as last amended by Laws of Utah 2022, Chapter 335
- 188 **80-3-504**, as enacted by Laws of Utah 2022, Chapter 334
- 189 **80-4-109**, as enacted by Laws of Utah 2021, Chapter 261
- 190 **80-4-302**, as renumbered and amended by Laws of Utah 2021, Chapter 261
- 191 **80-4-501**, as renumbered and amended by Laws of Utah 2022, Chapter 334
- 192 **80-6-402**, as last amended by Laws of Utah 2022, Chapter 152
- 193 **80-6-403**, as last amended by Laws of Utah 2022, Chapter 152
- 194 **80-6-608**, as renumbered and amended by Laws of Utah 2021, Chapter 261
- 195 **80-6-706**, as enacted by Laws of Utah 2021, Chapter 261
- 196 **80-6-801**, as enacted by Laws of Utah 2021, Chapter 261

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

199 Section 1. Section **63J-1-601** is amended to read:

200 **63J-1-601. End of fiscal year -- Unexpended balances -- Funds not to be closed**
 201 **out -- Pending claims -- Transfer of amounts from item of appropriation -- Nonlapsing**
 202 **accounts and funds -- Institutions of higher education to report unexpended balances.**

203 (1) As used in this section:

204 (a) "Education grant subrecipient" means a nonfederal entity that:

205 (i) receives a subaward from the State Board of Education to carry out at least part of a
 206 federal or state grant program; and

207 (ii) does not include an individual who is a beneficiary of the federal or state grant
 208 program.

209 (b) "Transaction control number" means the unique numerical identifier established by
 210 the Department of ~~Health~~ Health and Human Services to track each medical claim and
 211 indicates the date on which the claim is entered.

212 (2) On or before August 31 of each fiscal year, the director of the Division of Finance
 213 shall close out to the proper fund or account all remaining unexpended and unencumbered

- 214 balances of appropriations made by the Legislature, except:
- 215 (a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act, as:
- 216 (i) enterprise funds;
- 217 (ii) internal service funds;
- 218 (iii) fiduciary funds;
- 219 (iv) capital projects funds;
- 220 (v) discrete component unit funds;
- 221 (vi) debt service funds; and
- 222 (vii) permanent funds;
- 223 (b) those appropriations from a fund or account or appropriations to a program that are
- 224 designated as nonlapsing under Section [63J-1-602.1](#) or [63J-1-602.2](#);
- 225 (c) expendable special revenue funds, unless specifically directed to close out the fund
- 226 in the fund's enabling legislation;
- 227 (d) acquisition and development funds appropriated to the Division of State Parks or
- 228 the Division of Outdoor Recreation;
- 229 (e) funds encumbered to pay purchase orders issued before May 1 for capital
- 230 equipment if delivery is expected before June 30; and
- 231 (f) unexpended and unencumbered balances of appropriations that meet the
- 232 requirements of Section [63J-1-603](#).
- 233 (3) (a) Liabilities and related expenses for goods and services received on or before
- 234 June 30 shall be recognized as expenses due and payable from appropriations made before June
- 235 30.
- 236 (b) The liability and related expense shall be recognized within time periods
- 237 established by the Division of Finance but shall be recognized not later than August 31.
- 238 (c) Liabilities and expenses not so recognized may be paid from regular departmental
- 239 appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and
- 240 unencumbered balances of appropriations for the years in which the obligation was incurred.
- 241 (d) Amounts may not be transferred from an item of appropriation of any department,
- 242 institution, or agency into the Capital Projects Fund or any other fund without the prior express
- 243 approval of the Legislature.
- 244 (4) (a) For purposes of this chapter, a claim processed under the authority of [~~Title 26,~~

245 ~~Chapter 18, Medical Assistance Act]~~ Title 26B, Chapter 3, Health Care -- Administration and
246 Assistance:

247 (i) is not a liability or an expense to the state for budgetary purposes, unless the
248 Division of Health Care Financing receives the claim within the time periods established by the
249 Division of Finance under Subsection (3)(b); and

250 (ii) is not subject to Subsection (3)(c).

251 (b) The transaction control number that the Division of Health Care Financing records
252 on each claim invoice is the date of receipt.

253 (5) (a) For purposes of this chapter, a claim processed in accordance with Title 35A,
254 Chapter 13, Utah State Office of Rehabilitation Act:

255 (i) is not a liability or an expense to the state for budgetary purposes, unless the Utah
256 State Office of Rehabilitation receives the claim within the time periods established by the
257 Division of Finance under Subsection (3)(b); and

258 (ii) is not subject to Subsection (3)(c).

259 (b) (i) The Utah State Office of Rehabilitation shall mark each claim invoice with the
260 date on which the Utah State Office of Rehabilitation receives the claim invoice.

261 (ii) The date described in Subsection (5)(b)(i) is the date of receipt for purposes of this
262 section.

263 (6) (a) For purposes of this chapter, a reimbursement request received from an
264 education grant subrecipient:

265 (i) is not a liability or expense to the state for budgetary purposes, unless the State
266 Board of Education receives the claim within the time periods described in Subsection (3)(b);
267 and

268 (ii) is not subject to Subsection (3)(c).

269 (b) The transaction control number that the State Board of Education records on a
270 claim invoice is the date of receipt.

271 (7) Any balance from an appropriation to a state institution of higher education that
272 remains unexpended at the end of the fiscal year shall be reported to the Division of Finance by
273 the September 1 following the close of the fiscal year.

274 Section 2. Section **63J-1-602.1** is amended to read:

275 **63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**

- 276 Appropriations made from the following accounts or funds are nonlapsing:
- 277 (1) The Utah Intracurricular Student Organization Support for Agricultural Education
278 and Leadership Restricted Account created in Section [4-42-102](#).
- 279 (2) The Native American Repatriation Restricted Account created in Section [9-9-407](#).
- 280 (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in
281 Section [9-18-102](#).
- 282 (4) The National Professional Men's Soccer Team Support of Building Communities
283 Restricted Account created in Section [9-19-102](#).
- 284 (5) Funds collected for directing and administering the C-PACE district created in
285 Section [11-42a-106](#).
- 286 (6) Money received by the Utah Inland Port Authority, as provided in Section
287 [11-58-105](#).
- 288 (7) The "Latino Community Support Restricted Account" created in Section [13-1-16](#).
- 289 (8) The Clean Air Support Restricted Account created in Section [19-1-109](#).
- 290 (9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in
291 Section [19-2a-106](#).
- 292 (10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in
293 Section [19-5-126](#).
- 294 (11) The "Support for State-Owned Shooting Ranges Restricted Account" created in
295 Section [23-14-13.5](#).
- 296 (12) Award money under the State Asset Forfeiture Grant Program, as provided under
297 Section [24-4-117](#).
- 298 (13) Funds collected from the program fund for local health department expenses
299 incurred in responding to a local health emergency under Section [~~26-1-38~~] [26B-7-111](#).
- 300 (14) The Children with Cancer Support Restricted Account created in Section
301 [~~26-21a-304~~] [26B-1-314](#).
- 302 (15) State funds for matching federal funds in the Children's Health Insurance Program
303 as provided in Section [~~26-40-108~~] [26B-3-906](#).
- 304 (16) The Children with Heart Disease Support Restricted Account created in Section[
305 [26-58-102](#)] [26B-1-321](#).
- 306 (17) The Technology Development Restricted Account created in Section [31A-3-104](#).

- 307 (18) The Criminal Background Check Restricted Account created in Section
308 [31A-3-105](#).
- 309 (19) The Captive Insurance Restricted Account created in Section [31A-3-304](#), except
310 to the extent that Section [31A-3-304](#) makes the money received under that section free revenue.
- 311 (20) The Title Licensee Enforcement Restricted Account created in Section
312 [31A-23a-415](#).
- 313 (21) The Health Insurance Actuarial Review Restricted Account created in Section
314 [31A-30-115](#).
- 315 (22) The Insurance Fraud Investigation Restricted Account created in Section
316 [31A-31-108](#).
- 317 (23) The Underage Drinking Prevention Media and Education Campaign Restricted
318 Account created in Section [32B-2-306](#).
- 319 (24) The Drinking While Pregnant Prevention Media and Education Campaign
320 Restricted Account created in Section [32B-2-308](#).
- 321 (25) The School Readiness Restricted Account created in Section [35A-15-203](#).
- 322 (26) Money received by the Utah State Office of Rehabilitation for the sale of certain
323 products or services, as provided in Section [35A-13-202](#).
- 324 (27) The Oil and Gas Administrative Penalties Account created in Section [40-6-11](#).
- 325 (28) The Oil and Gas Conservation Account created in Section [40-6-14.5](#).
- 326 (29) The Division of Oil, Gas, and Mining Restricted account created in Section
327 [40-6-23](#).
- 328 (30) The Electronic Payment Fee Restricted Account created by Section [41-1a-121](#) to
329 the Motor Vehicle Division.
- 330 (31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account
331 created by Section [41-3-110](#) to the State Tax Commission.
- 332 (32) The Utah Law Enforcement Memorial Support Restricted Account created in
333 Section [53-1-120](#).
- 334 (33) The State Disaster Recovery Restricted Account to the Division of Emergency
335 Management, as provided in Section [53-2a-603](#).
- 336 (34) The Post Disaster Recovery and Mitigation Restricted Account created in Section
337 [53-2a-1302](#).

338 (35) The Department of Public Safety Restricted Account to the Department of Public
339 Safety, as provided in Section 53-3-106.

340 (36) The Utah Highway Patrol Aero Bureau Restricted Account created in Section
341 53-8-303.

342 (37) The DNA Specimen Restricted Account created in Section 53-10-407.

343 (38) The Canine Body Armor Restricted Account created in Section 53-16-201.

344 (39) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

345 (40) The Higher Education Capital Projects Fund created in Section 53B-22-202.

346 (41) A certain portion of money collected for administrative costs under the School
347 Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

348 (42) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5,
349 subject to Subsection 54-5-1.5(4)(d).

350 (43) Funds collected from a surcharge fee to provide certain licensees with access to an
351 electronic reference library, as provided in Section 58-3a-105.

352 (44) Certain fines collected by the Division of Professional Licensing for violation of
353 unlawful or unprofessional conduct that are used for education and enforcement purposes, as
354 provided in Section 58-17b-505.

355 (45) Funds collected from a surcharge fee to provide certain licensees with access to an
356 electronic reference library, as provided in Section 58-22-104.

357 (46) Funds collected from a surcharge fee to provide certain licensees with access to an
358 electronic reference library, as provided in Section 58-55-106.

359 (47) Funds collected from a surcharge fee to provide certain licensees with access to an
360 electronic reference library, as provided in Section 58-56-3.5.

361 (48) Certain fines collected by the Division of Professional Licensing for use in
362 education and enforcement of the Security Personnel Licensing Act, as provided in Section
363 58-63-103.

364 (49) The Relative Value Study Restricted Account created in Section 59-9-105.

365 (50) The Cigarette Tax Restricted Account created in Section 59-14-204.

366 (51) Funds paid to the Division of Real Estate for the cost of a criminal background
367 check for a mortgage loan license, as provided in Section 61-2c-202.

368 (52) Funds paid to the Division of Real Estate for the cost of a criminal background

369 check for principal broker, associate broker, and sales agent licenses, as provided in Section
370 61-2f-204.

371 (53) Certain funds donated to the Department of Health and Human Services, as
372 provided in Section 26B-1-202.

373 (54) The National Professional Men's Basketball Team Support of Women and
374 Children Issues Restricted Account created in Section 26B-1-302.

375 (55) Certain funds donated to the Division of Child and Family Services, as provided
376 in Section 80-2-404.

377 (56) The Choose Life Adoption Support Restricted Account created in Section
378 80-2-502.

379 (57) Funds collected by the Office of Administrative Rules for publishing, as provided
380 in Section 63G-3-402.

381 (58) The Immigration Act Restricted Account created in Section 63G-12-103.

382 (59) Money received by the military installation development authority, as provided in
383 Section 63H-1-504.

384 (60) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

385 (61) The Unified Statewide 911 Emergency Service Account created in Section
386 63H-7a-304.

387 (62) The Utah Statewide Radio System Restricted Account created in Section
388 63H-7a-403.

389 (63) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

390 (64) The Motion Picture Incentive Account created in Section 63N-8-103.

391 (65) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission,
392 as provided under Section 63N-10-301.

393 (66) Funds collected by the housing of state probationary inmates or state parole
394 inmates, as provided in Subsection 64-13e-104(2).

395 (67) Certain forestry and fire control funds utilized by the Division of Forestry, Fire,
396 and State Lands, as provided in Section 65A-8-103.

397 (68) The Amusement Ride Safety Restricted Account, as provided in Section
398 72-16-204.

399 (69) Certain funds received by the Office of the State Engineer for well drilling fines or

400 bonds, as provided in Section 73-3-25.

401 (70) The Water Resources Conservation and Development Fund, as provided in
402 Section 73-23-2.

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

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

406 (73) Funds collected for adoption document access as provided in Sections 78B-6-141,
407 78B-6-144, and 78B-6-144.5.

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

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

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

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

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

419 Section 3. Section 63J-1-602.2 is amended to read:

420 **63J-1-602.2. List of nonlapsing appropriations to programs.**

421 Appropriations made to the following programs are nonlapsing:

422 (1) The Legislature and the Legislature's committees.

423 (2) The State Board of Education, including all appropriations to agencies, line items,
424 and programs under the jurisdiction of the State Board of Education, in accordance with
425 Section 53F-9-103.

426 (3) The Percent-for-Art Program created in Section 9-6-404.

427 (4) The LeRay McAllister Critical Land Conservation Program created in Section
428 4-46-301.

429 (5) The Utah Lake Authority created in Section 11-65-201.

430 (6) Dedicated credits accrued to the Utah Marriage Commission as provided under

431 Subsection [17-16-21](#)(2)(d)(ii).

432 (7) The Division of Wildlife Resources for the appraisal and purchase of lands under
433 the Pelican Management Act, as provided in Section [23-21a-6](#).

434 [~~(8) The Emergency Medical Services Grant Program in Section [26-8a-207](#);~~]

435 [~~(9) The primary care grant program created in Section [26-10b-102](#);~~]

436 [~~(10) Sanctions collected as dedicated credits from Medicaid providers under
437 Subsection [26-18-3](#)(7);]~~

438 [~~(11) The Utah Health Care Workforce Financial Assistance Program created in
439 Section [26-46-102](#);~~]

440 [~~(12) The Rural Physician Loan Repayment Program created in Section [26-46a-103](#);~~]

441 [~~(13) The Opiate Overdose Outreach Pilot Program created in Section [26-55-107](#);~~]

442 [~~(14) The Utah Medical Education Council for the:~~]

443 [~~(a) administration of the Utah Medical Education Program created in Section
444 [26-69-403](#);~~]

445 [~~(b) provision of medical residency grants described in Section [26-69-407](#); and]~~

446 [~~(c) provision of the forensic psychiatric fellowship grant described in Section
447 [26-69-408](#);~~]

448 (8) Sanctions collected as dedicated credits from Medicaid providers under Subsection
449 [26B-3-108](#)(7).

450 (9) The Emergency Medical Services Grant Program in Section [26B-4-107](#).

451 (10) The primary care grant program created in Section [26B-4-310](#).

452 (11) The Opiate Overdose Outreach Pilot Program created in Section [26B-4-512](#).

453 (12) The Utah Health Care Workforce Financial Assistance Program created in Section
454 [26B-4-702](#).

455 (13) The Rural Physician Loan Repayment Program created in Section [26B-4-703](#).

456 (14) The Utah Medical Education Council for the:

457 (a) administration of the Utah Medical Education Program created in Section
458 [26B-4-707](#);

459 (b) provision of medical residency grants described in Section [26B-4-711](#); and

460 (c) provision of the forensic psychiatric fellowship grant described in Section
461 [26B-4-712](#).

462 (15) The Division of Services for People with Disabilities, as provided in Section
463 26B-6-402.

464 ~~[(15)]~~ (16) Funds that the Department of Alcoholic Beverage Services retains in
465 accordance with Subsection 32B-2-301(8)(a) or (b).

466 ~~[(16)]~~ (17) The General Assistance program administered by the Department of
467 Workforce Services, as provided in Section 35A-3-401.

468 ~~[(17)]~~ (18) The Utah National Guard, created in Title 39, Militia and Armories.

469 ~~[(18)]~~ (19) The State Tax Commission under Section 41-1a-1201 for the:

470 (a) purchase and distribution of license plates and decals; and

471 (b) administration and enforcement of motor vehicle registration requirements.

472 ~~[(19)]~~ (20) The Search and Rescue Financial Assistance Program, as provided in
473 Section 53-2a-1102.

474 ~~[(20)]~~ (21) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

475 ~~[(21)]~~ (22) The Utah Board of Higher Education for teacher preparation programs, as
476 provided in Section 53B-6-104.

477 ~~[(22)]~~ (23) Innovation grants under Section 53G-10-608, except as provided in
478 Subsection 53G-10-608(6).

479 ~~[(23) The Division of Services for People with Disabilities, as provided in Section~~
480 ~~62A-5-102.]~~

481 (24) The Division of Fleet Operations for the purpose of upgrading underground
482 storage tanks under Section 63A-9-401.

483 (25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

484 (26) The Division of Technology Services for technology innovation as provided under
485 Section 63A-16-903.

486 (27) The Office of Administrative Rules for publishing, as provided in Section
487 63G-3-402.

488 (28) The Colorado River Authority of Utah, created in Title 63M, Chapter 14,
489 Colorado River Authority of Utah Act.

490 (29) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act,
491 as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

492 (30) The Governor's Office of Economic Opportunity's Rural Employment Expansion

493 Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

494 (31) Programs for the Jordan River Recreation Area as described in Section [65A-2-8](#).

495 (32) The Division of Human Resource Management user training program, as provided
496 in Section [63A-17-106](#).

497 (33) A public safety answering point's emergency telecommunications service fund, as
498 provided in Section [69-2-301](#).

499 (34) The Traffic Noise Abatement Program created in Section [72-6-112](#).

500 (35) The money appropriated from the Navajo Water Rights Negotiation Account to
501 the Division of Water Rights, created in Section [73-2-1.1](#), for purposes of participating in a
502 settlement of federal reserved water right claims.

503 (36) The Judicial Council for compensation for special prosecutors, as provided in
504 Section [77-10a-19](#).

505 (37) A state rehabilitative employment program, as provided in Section [78A-6-210](#).

506 (38) The Utah Geological Survey, as provided in Section [79-3-401](#).

507 (39) The Bonneville Shoreline Trail Program created under Section [79-5-503](#).

508 (40) Adoption document access as provided in Sections [78B-6-141](#), [78B-6-144](#), and
509 [78B-6-144.5](#).

510 (41) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent
511 Defense Commission.

512 (42) The program established by the Division of Facilities Construction and
513 Management under Section [63A-5b-703](#) under which state agencies receive an appropriation
514 and pay lease payments for the use and occupancy of buildings owned by the Division of
515 Facilities Construction and Management.

516 (43) The State Tax Commission for reimbursing counties for deferred property taxes in
517 accordance with Section [59-2-1802](#).

518 Section 4. Section **63J-5-206** is amended to read:

519 **63J-5-206. Intergovernmental transfers for Medicaid.**

520 (1) Subject to Subsections (2) and (3), an intergovernmental transfer program under
521 Section [~~26-18-21~~] [26B-3-130](#) is subject to the same review provisions as a federal funds
522 request under this chapter.

523 (2) Notwithstanding Subsection (1), if a new intergovernmental transfer program

524 created under Subsection [~~26-18-21(3)~~] [26B-3-130\(3\)](#) will result in the state receiving total
525 payments of \$10,000,000 or more per year from the federal government, the intergovernmental
526 transfer program is subject to the same review provisions as a high impact federal funds request
527 in Subsections [63J-5-204\(3\)](#), (4), and (5).

528 (3) (a) Beginning on July 1, 2017, an intergovernmental transfer program created
529 before July 1, 2017, is subject to the federal funds review process of Section [63J-5-201](#) for
530 periods after July 1, 2017.

531 (b) The addition of a new participant into an existing intergovernmental transfer
532 program, or the addition by the department of a nursing care facility or a non-state government
533 entity to the Nursing Care Facility Non-State Government-Owned Upper Payment Limit
534 program, is not subject to the requirements of this section.

535 Section 5. Section **63J-7-102** is amended to read:

536 **63J-7-102. Scope and applicability of chapter.**

537 (1) Except as provided in Subsection (2), and except as otherwise provided by a statute
538 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
539 this chapter apply to each agency and govern each grant received on or after May 5, 2008.

540 (2) This chapter does not govern:

541 (a) a grant deposited into a General Fund restricted account;

542 (b) a grant deposited into a Fiduciary Fund as defined in Section [51-5-4](#);

543 (c) a grant deposited into an Enterprise Fund as defined in Section [51-5-4](#);

544 (d) a grant made to the state without a restriction or other designated purpose that is
545 deposited into the General Fund as free revenue;

546 (e) a grant made to the state that is restricted only to "education" and that is deposited
547 into the Income Tax Fund or Uniform School Fund as free revenue;

548 (f) in-kind donations;

549 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state
550 when required by state law or application of state law;

551 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax
552 Contribution Act;

553 (i) a grant received by an agency from another agency or political subdivision;

554 (j) a grant to the Utah Dairy Commission created in Section [4-22-103](#);

- 555 (k) a grant to the Heber Valley Historic Railroad Authority created in Section
 556 [63H-4-102](#);
- 557 (l) a grant to the Utah State Railroad Museum Authority created in Section [63H-5-102](#);
- 558 (m) a grant to the Utah Housing Corporation created in Section [63H-8-201](#);
- 559 (n) a grant to the Utah State Fair Corporation created in Section [63H-6-103](#);
- 560 (o) a grant to the Utah State Retirement Office created in Section [49-11-201](#);
- 561 (p) a grant to the School and Institutional Trust Lands Administration created in
 562 Section [53C-1-201](#);
- 563 (q) a grant to the Utah Communications Authority created in Section [63H-7a-201](#);
- 564 (r) a grant to the Medical Education Program created in Section [~~26-69-403~~]
 565 [26B-4-707](#);
- 566 (s) a grant to the Utah Capital Investment Corporation created in Section [63N-6-301](#);
- 567 (t) a grant to the Utah Charter School Finance Authority created in Section [53G-5-602](#);
- 568 (u) a grant to the State Building Ownership Authority created in Section [63B-1-304](#); or
- 569 (v) a grant to the Military Installation Development Authority created in Section
 570 [63H-1-201](#).
- 571 (3) An agency need not seek legislative review or approval of grants under Part 2,
 572 Grant Approval Requirements, if:
- 573 (a) the governor has declared a state of emergency; and
- 574 (b) the grant is donated to the agency to assist victims of the state of emergency under
 575 Subsection [53-2a-204](#)(1).
- 576 Section 6. Section **63M-7-204** is amended to read:
- 577 **63M-7-204. Duties of commission.**
- 578 (1) The State Commission on Criminal and Juvenile Justice administration shall:
- 579 (a) promote the commission's purposes as enumerated in Section [63M-7-201](#);
- 580 (b) promote the communication and coordination of all criminal and juvenile justice
 581 agencies;
- 582 (c) study, evaluate, and report on the status of crime in the state and on the
 583 effectiveness of criminal justice policies, procedures, and programs that are directed toward the
 584 reduction of crime in the state;
- 585 (d) study, evaluate, and report on programs initiated by state and local agencies to

586 address reducing recidivism, including changes in penalties and sentencing guidelines intended
587 to reduce recidivism, costs savings associated with the reduction in the number of inmates, and
588 evaluation of expenses and resources needed to meet goals regarding the use of treatment as an
589 alternative to incarceration, as resources allow;

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

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

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

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

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

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

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

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

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

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

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

615 (iii) defining and developing state and local programs and projects associated with the
616 improvement of information management for law enforcement and the administration of

617 justice; and

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

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

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

625 (p) request, receive, and evaluate data and recommendations collected and reported by
626 agencies and contractors related to policies recommended by the commission regarding
627 recidivism reduction, including the data described in Section 13-53-111 and Subsection
628 [~~62A-15-103(2)(f)~~] 26B-5-102(2)(l);

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

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

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

637 (t) allocate and administer grants, from money made available, for pilot qualifying
638 education programs;

639 (u) oversee the trauma-informed justice program described in Section 63M-7-209;

640 (v) request, receive, and evaluate the aggregate data collected from prosecutorial
641 agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216
642 and 78A-2-109.5;

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

645 (i) ensuring oversight and accountability;

646 (ii) supporting local corrections systems;

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

648 (iv) strengthening probation and parole supervision;
649 (x) compile a report of findings based on the data and recommendations provided
650 under Section [13-53-111](#) and Subsection [~~62A-15-103(2)(n)~~] [26B-5-102\(2\)\(n\)](#) that:
651 (i) separates the data provided under Section [13-53-111](#) by each residential, vocational
652 and life skills program; and
653 (ii) separates the data provided under Subsection [~~62A-15-103(2)(n)~~] [26B-5-102\(2\)\(n\)](#)
654 by each mental health or substance use treatment program; and
655 (y) publish the report described in Subsection (1)(x) on the commission's website and
656 annually provide the report to the Judiciary Interim Committee, the Health and Human Services
657 Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the
658 related appropriations subcommittees.

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

663 Section 7. Section **63M-7-209** is amended to read:

664 **63M-7-209. Trauma-informed justice program.**

665 (1) As used in this section:

666 (a) "Committee" means the Multi-Disciplinary Trauma-Informed Committee created
667 under Subsection (2).

668 (b) "First responder" includes:

669 (i) a law enforcement officer, as defined in Section [53-13-103](#);

670 (ii) emergency medical service personnel, as defined in Section [~~26-8a-102~~]

671 [26B-4-101](#); and

672 (iii) a firefighter.

673 (c) "Trauma-informed" means a policy, procedure, program, or practice that
674 demonstrates an ability to minimize retraumatization associated with the criminal and juvenile
675 justice system.

676 (d) "Victim" means the same as that term is defined in Section [77-37-2](#).

677 (2) (a) The commission shall create a committee known as the Multi-Disciplinary
678 Trauma-Informed Committee to assist the commission in meeting the requirements of this

679 section. The commission shall provide for the membership, terms, and quorum requirements of
680 the committee, except that:

681 (i) at least one member of the committee shall be a victim;

682 (ii) the executive director of the Department of ~~[Health]~~ Health and Human Services or
683 the executive director's designee shall be on the committee; and

684 ~~[(iii) the executive director of the Department of Human Services or the executive
685 director's designee shall be on the committee; and]~~

686 ~~[(iv)]~~ (iii) the commission shall terminate the committee on June 30, 2020.

687 (b) The commission shall use the Utah Office for Victims of Crime, the Utah Office on
688 Domestic and Sexual Violence, and the Utah Council on Victims of Crime in meeting the
689 requirements of this section.

690 (3) (a) The committee shall work with statewide coalitions, children's justice centers,
691 and other stakeholders to complete, by no later than September 1, 2019, a review of current and
692 recommended trauma-informed policies, procedures, programs, or practices in the state's
693 criminal and juvenile justice system, including:

694 (i) reviewing the role of victim advocates and victim services in the criminal and
695 juvenile justice system and:

696 (A) how to implement the option of a comprehensive, seamless victim advocate system
697 that is based on the best interests of victims and assists a victim throughout the criminal and
698 juvenile justice system or a victim's process of recovering from the trauma the victim
699 experienced as a result of being a victim of crime; and

700 (B) recommending what minimum qualifications a victim advocate must meet,
701 including recommending trauma-informed training or trauma-informed continuing education
702 hours;

703 (ii) reviewing of best practice standards and protocols, including recommending
704 adoption or creation of trauma-informed interview protocols, that may be used to train persons
705 within the criminal and juvenile justice system concerning trauma-informed policies,
706 procedures, programs, or practices, including training of:

707 (A) peace officers that is consistent with the training developed under Section
708 [53-10-908](#);

709 (B) first responders;

- 710 (C) prosecutors;
- 711 (D) defense counsel;
- 712 (E) judges and other court personnel;
- 713 (F) the Board of Pardons and Parole and its personnel;
- 714 (G) the Department of Corrections, including Adult Probation and Parole; and
- 715 (H) others involved in the state's criminal and juvenile justice system;
- 716 (iii) recommending outcome based metrics to measure achievement related to
- 717 trauma-informed policies, procedures, programs, or practices in the criminal and juvenile
- 718 justice system;
- 719 (iv) recommending minimum qualifications and continuing education of individuals
- 720 providing training, consultation, or administrative supervisory consultation within the criminal
- 721 and juvenile justice system regarding trauma-informed policies, procedures, programs, or
- 722 practices;
- 723 (v) identifying needs that are not funded or that would benefit from additional
- 724 resources;
- 725 (vi) identifying funding sources, including outlining the restrictions on the funding
- 726 sources, that may fund trauma-informed policies, procedures, programs, or practices;
- 727 (vii) reviewing which governmental entities should have the authority to implement
- 728 recommendations of the committee; and
- 729 (viii) reviewing the need, if any, for legislation or appropriations to meet budget needs.
- 730 (b) Whenever the commission conducts a related survey, the commission, when
- 731 possible, shall include how victims and their family members interact with Utah's criminal and
- 732 juvenile justice system, including whether the victims and family members are treated with
- 733 trauma-informed policies, procedures, programs, or practices throughout the criminal and
- 734 juvenile justice system.
- 735 (4) The commission shall establish and administer a performance incentive grant
- 736 program that allocates money appropriated by the Legislature to public or private entities:
- 737 (a) to provide advocacy and related service for victims in connection with the Board of
- 738 Pardons and Parole process; and
- 739 (b) that have demonstrated experience and competency in the best practices and
- 740 standards of trauma-informed care.

741 (5) The commission shall report to the Judiciary Interim Committee, at the request of
742 the Judiciary Interim Committee, and the Law Enforcement and Criminal Justice Interim
743 Committee by no later than the September 2019 interim regarding the grant under Subsection
744 (4), the committee's activities under this section, and whether the committee should be
745 extended beyond June 30, 2020.

746 Section 8. Section **63M-7-216** is amended to read:

747 **63M-7-216. Prosecutorial data collection -- Policy transparency.**

748 (1) As used in this section:

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

751 (b) (i) "Criminal case" means a case where an offender is charged with an offense for
752 which a mandatory court appearance is required under the Uniform Bail Schedule.

753 (ii) "Criminal case" does not mean a case for criminal non-support under Section
754 [76-7-201](#) or any proceeding involving collection or payment of child support, medical support,
755 or child care expenses by or on behalf of the Office of Recovery Services under Section
756 [~~62A-11-107~~] [26B-9-108](#) or [76-7-202](#).

757 (c) "Offense tracking number" means a distinct number applied to each criminal
758 offense by the Bureau of Criminal Identification.

759 (d) "Pre-filing diversion" means an agreement between a prosecutor and an individual
760 prior to being charged with a crime, before an information or indictment is filed, in which the
761 individual is diverted from the traditional criminal justice system into a program of supervision
762 and supportive services in the community.

763 (e) "Post-filing diversion" is as described in Section [77-2-5](#).

764 (f) "Prosecutorial agency" means the Office of the Attorney General and any city,
765 county, or district attorney acting as a public prosecutor.

766 (g) "Publish" means to make aggregated data available to the general public.

767 (2) Beginning July 1, 2021, all prosecutorial agencies within the state shall submit the
768 following data with regards to each criminal case referred to it from a law enforcement agency
769 to the commission for compilation and analysis:

770 (a) the defendant's:

771 (i) full name;

- 772 (ii) offense tracking number;
- 773 (iii) date of birth; and
- 774 (iv) zip code;
- 775 (b) referring agency;
- 776 (c) whether the prosecutorial agency filed charges, declined charges, initiated a
777 pre-filing diversion, or asked the referring agency for additional information;
- 778 (d) if charges were filed, the case number and the court in which the charges were
779 filed;
- 780 (e) all charges brought against the defendant;
- 781 (f) whether bail was requested and, if so, the requested amount;
- 782 (g) the date of initial discovery disclosure;
- 783 (h) whether post-filing diversion was offered and, if so, whether it was entered;
- 784 (i) if post-filing diversion or other plea agreement was accepted, the date entered by the
785 court; and
- 786 (j) the date of conviction, acquittal, plea agreement, dismissal, or other disposition of
787 the case.
- 788 (3) (a) The information required by Subsection (2), including information that was
789 missing or incomplete at the time of an earlier submission but is presently available, shall be
790 submitted within 90 days of the last day of March, June, September, and December of each
791 year for the previous 90-day period in the form and manner selected by the commission.
- 792 (b) If the last day of the month is a Saturday, Sunday, or state holiday, the information
793 shall be submitted on the next working day.
- 794 (4) The prosecutorial agency shall maintain a record of all information collected and
795 transmitted to the commission for 10 years.
- 796 (5) The commission shall include in the plan required by Subsection [63M-7-204\(1\)\(k\)](#)
797 an analysis of the data received, comparing and contrasting the practices and trends among and
798 between prosecutorial agencies in the state. The Law Enforcement and Criminal Justice Interim
799 Committee may request an in-depth analysis of the data received annually. Any request shall be
800 in writing and specify which data points the report shall focus on.
- 801 (6) The commission may provide assistance to prosecutorial agencies in setting up a
802 method of collecting and reporting data required by this section.

803 (7) Beginning January 1, 2021, all prosecutorial agencies shall publish specific office
804 policies. If the agency does not maintain a policy on a topic in this subsection, the agency shall
805 affirmatively disclose that fact. Policies shall be published online on the following topics:

- 806 (a) screening and filing criminal charges;
- 807 (b) plea bargains;
- 808 (c) sentencing recommendations;
- 809 (d) discovery practices;
- 810 (e) prosecution of juveniles, including whether to prosecute a juvenile as an adult;
- 811 (f) collection of fines and fees;
- 812 (g) criminal and civil asset forfeiture practices;
- 813 (h) services available to victims of crime, both internal to the prosecutorial office and
814 by referral to outside agencies;
- 815 (i) diversion programs;
- 816 (j) restorative justice programs; and

817 (8) (a) A prosecutorial agency not in compliance with this section by July 1, 2022, in
818 accordance with the commission's guidelines may not receive grants or other funding intended
819 to assist with bringing the agency into compliance with this section. In addition, any funds
820 received for the purpose of bringing the agency into compliance with this section shall be
821 returned to the source of the funding.

822 (b) Only funding received from the commission by a prosecutorial agency specifically
823 intended to assist the agency with compliance with this section may be recalled.

824 Section 9. Section **63M-7-301** is amended to read:

825 **63M-7-301. Definitions -- Creation of council -- Membership -- Terms.**

826 (1) (a) As used in this part, "council" means the Utah Substance Use and Mental Health
827 Advisory Council created in this section.

828 (b) There is created within the governor's office the Utah Substance Use and Mental
829 Health Advisory Council.

830 (2) The council shall be comprised of the following voting members:

- 831 (a) the attorney general or the attorney general's designee;
- 832 (b) one elected county official appointed by the Utah Association of Counties;
- 833 (c) the commissioner of public safety or the commissioner's designee;

- 834 (d) the director of the Division of Integrated Healthcare or the director's designee;
835 (e) the state superintendent of public instruction or the superintendent's designee;
836 (f) the executive director of the Department of Health and Human Services or the
837 executive director's designee;
838 (g) the executive director of the Commission on Criminal and Juvenile Justice or the
839 executive director's designee;
840 (h) the executive director of the Department of Corrections or the executive director's
841 designee;
842 (i) the director of the Division of Juvenile Justice Services or the director's designee;
843 (j) the director of the Division of Child and Family Services or the director's designee;
844 (k) the chair of the Board of Pardons and Parole or the chair's designee;
845 (l) the director of the Office of Multicultural Affairs or the director's designee;
846 (m) the director of the Division of Indian Affairs or the director's designee;
847 (n) the state court administrator or the state court administrator's designee;
848 (o) one district court judge who presides over a drug court and who is appointed by the
849 chief justice of the Utah Supreme Court;
850 (p) one district court judge who presides over a mental health court and who is
851 appointed by the chief justice of the Utah Supreme Court;
852 (q) one juvenile court judge who presides over a drug court and who is appointed by
853 the chief justice of the Utah Supreme Court;
854 (r) one prosecutor appointed by the Statewide Association of Prosecutors;
855 (s) the chair or co-chair of each committee established by the council;
856 (t) the chair or co-chair of the Statewide Suicide Prevention Coalition created under
857 Subsection [~~62A-15-1101(2)~~] 26B-5-611(3);
858 (u) one representative appointed by the Utah League of Cities and Towns to serve a
859 four-year term;
860 (v) the following members appointed by the governor to serve four-year terms:
861 (i) one resident of the state who has been personally affected by a substance use or
862 mental health disorder; and
863 (ii) one citizen representative; and
864 (w) in addition to the voting members described in Subsections (2)(a) through (v), the

865 following voting members appointed by a majority of the members described in Subsections
866 (2)(a) through (v) to serve four-year terms:

867 (i) one resident of the state who represents a statewide advocacy organization for
868 recovery from substance use disorders;

869 (ii) one resident of the state who represents a statewide advocacy organization for
870 recovery from mental illness;

871 (iii) one resident of the state who represents a statewide advocacy organization for
872 protection of rights of individuals with a disability;

873 (iv) one resident of the state who represents prevention professionals;

874 (v) one resident of the state who represents treatment professionals;

875 (vi) one resident of the state who represents the physical health care field;

876 (vii) one resident of the state who is a criminal defense attorney;

877 (viii) one resident of the state who is a military servicemember or military veteran
878 under Section [53B-8-102](#);

879 (ix) one resident of the state who represents local law enforcement agencies;

880 (x) one representative of private service providers that serve youth with substance use
881 disorders or mental health disorders; and

882 (xi) one resident of the state who is certified by the Division of Integrated Healthcare
883 as a peer support specialist as described in Subsection [~~62A-15-103(2)(h)~~] [26B-5-102\(2\)\(h\)](#).

884 (3) An individual other than an individual described in Subsection (2) may not be
885 appointed as a voting member of the council.

886 Section 10. Section **63M-7-303** is amended to read:

887 **63M-7-303. Duties of council.**

888 (1) The Utah Substance Use and Mental Health Advisory Council shall:

889 (a) provide leadership and generate unity for Utah's ongoing efforts to reduce and
890 eliminate the impact of substance use and mental health disorders in Utah through a
891 comprehensive and evidence-based prevention, treatment, and justice strategy;

892 (b) recommend and coordinate the creation, dissemination, and implementation of
893 statewide policies to address substance use and mental health disorders;

894 (c) facilitate planning for a balanced continuum of substance use and mental health
895 disorder prevention, treatment, and justice services;

- 896 (d) promote collaboration and mutually beneficial public and private partnerships;
- 897 (e) coordinate recommendations made by any committee created under Section
- 898 [63M-7-302](#);
- 899 (f) analyze and provide an objective assessment of all proposed legislation concerning
- 900 substance use, mental health, and related issues;
- 901 (g) coordinate the implementation of Section [77-18-104](#) and related provisions in
- 902 Subsections [77-18-103\(2\)\(c\)](#) and (d), as provided in Section [63M-7-305](#);
- 903 (h) comply with Sections [32B-2-306](#) and [~~[62A-15-403](#)~~] [26B-5-206](#); and
- 904 (i) oversee coordination for the funding, implementation, and evaluation of suicide
- 905 prevention efforts described in Section [~~[62A-15-1101](#)~~] [26B-5-611](#).
- 906 (2) The council shall meet quarterly or more frequently as determined necessary by the
- 907 chair.
- 908 (3) The council shall report the council's recommendations annually to the
- 909 commission, governor, the Legislature, and the Judicial Council.
- 910 Section 11. Section **63M-13-202** is amended to read:
- 911 **63M-13-202. Duties of the commission.**
- 912 (1) The responsibilities of the commission include:
- 913 (a) supporting Utah parents and families, who have family members that are in early
- 914 childhood, by providing comprehensive and accurate information regarding the availability of
- 915 voluntary services that are available to children in early childhood from state agencies and
- 916 other private and public entities;
- 917 (b) facilitating improved coordination between state agencies and community partners
- 918 that provide services to children in early childhood;
- 919 (c) sharing and analyzing information regarding early childhood issues in the state;
- 920 (d) developing and coordinating a comprehensive delivery system of services for
- 921 children in early childhood that addresses the following four areas:
- 922 (i) family support and safety;
- 923 (ii) health and development;
- 924 (iii) early learning; and
- 925 (iv) economic development; and
- 926 (e) identifying opportunities for and barriers to the alignment of standards, rules,

927 policies, and procedures across programs and agencies that support children in early childhood.

928 (2) To fulfill the responsibilities described in Subsection (1), the commission shall:

929 (a) directly engage with parents, families, community members, and public and private
930 service providers to identify and address:

931 (i) the quality, effectiveness, and availability of existing services for children in early
932 childhood and the coordination of those services;

933 (ii) gaps and barriers to entry in the provision of services for children in early
934 childhood; and

935 (iii) community-based solutions in improving the quality, effectiveness, and
936 availability of services for children in early childhood;

937 (b) seek regular and ongoing feedback from a wide range of entities and individuals
938 that use or provide services for children in early childhood, including entities and individuals
939 that use, represent, or provide services for any of the following:

940 (i) children in early childhood who live in urban, suburban, or rural areas of the state;

941 (ii) children in early childhood with varying socioeconomic backgrounds;

942 (iii) children in early childhood with varying ethnic or racial heritage;

943 (iv) children in early childhood from various geographic areas of the state; and

944 (v) children in early childhood with special needs;

945 (c) study, evaluate, and report on the status and effectiveness of policies, procedures,
946 and programs that provide services to children in early childhood;

947 (d) study and evaluate the effectiveness of policies, procedures, and programs
948 implemented by other states and nongovernmental entities that address the needs of children in
949 early childhood;

950 (e) identify policies, procedures, and programs that are impeding efforts to help
951 children in early childhood in the state and recommend and implement changes to those
952 policies, procedures, and programs;

953 (f) identify policies, procedures, and programs related to children in early childhood in
954 the state that are inefficient or duplicative and recommend and implement changes to those
955 policies, procedures, and programs;

956 (g) recommend policy, procedure, and program changes to address the needs of
957 children in early childhood;

958 (h) develop methods for using interagency information to inform comprehensive policy
959 and budget decisions relating to early childhood services;

960 (i) develop, recommend, and coordinate a comprehensive delivery system of services
961 for children in early childhood; and

962 (j) develop strategies and monitor efforts concerning:

963 (i) increasing school readiness;

964 (ii) improving access to child care and early education programs; and

965 (iii) improving family and community engagement in early childhood education and
966 development.

967 (3) In fulfilling the duties of the commission, the commission shall collaborate with the
968 Early Childhood Utah Advisory Council created in Section [~~26-66-201~~] [26B-1-422](#).

969 (4) In fulfilling the commission's duties, the commission may:

970 (a) request and receive, from any state or local governmental agency or institution,
971 information relating to early childhood, including reports, audits, projections, and statistics;
972 and

973 (b) appoint special advisory groups to advise and assist the commission.

974 (5) Members of a special advisory group described in Subsection (4)(b):

975 (a) shall be appointed by the commission;

976 (b) may include:

977 (i) members of the commission; and

978 (ii) individuals from the private or public sector; and

979 (c) may not receive reimbursement or pay for work done in relation to the special
980 advisory group.

981 (6) A special advisory group created in accordance with Subsection (4)(b) shall report
982 to the commission on the progress of the special advisory group.

983 Section 12. Section ~~64-13-37~~ is amended to read:

984 **64-13-37. Department authorized to test offenders for communicable disease.**

985 (1) As used in this section, "communicable disease" means:

986 (a) an illness due to a specific infectious agent or its toxic products, which arises
987 through transmission of that agent or its products from a reservoir to a susceptible host either
988 directly, as from an infected person or animal, or indirectly, through an intermediate plant or

989 animal host, vector, or the inanimate environment; and

990 (b) a disease designated by the Department of ~~[Health]~~ Health and Human Services by
991 rule as a communicable disease in accordance with Section ~~[26-6-7]~~ 26B-7-207.

992 (2) The department may:

993 (a) test an offender for a communicable disease upon admission or within a reasonable
994 time after admission to a correctional facility; and

995 (b) periodically retest the offender for a communicable disease during the time the
996 offender is in the custody of the department.

997 Section 13. Section **64-13-39** is amended to read:

998 **64-13-39. Standards for health care facilities.**

999 All health care facilities, as defined in Section ~~[26-21-2]~~ 26B-2-201, owned or operated
1000 by the department shall apply for and meet the requirements for accreditation by the National
1001 Commission for Correctional Health Care. The department shall begin the application process
1002 in a timely manner to facilitate accreditation of the health care facilities of the department on or
1003 before January 1, 1996. Inspections to ensure compliance and accreditation shall be conducted
1004 by staff of the national commission.

1005 Section 14. Section **64-13-39.5** is amended to read:

1006 **64-13-39.5. Definitions -- Health care for chronically or terminally ill offenders --**
1007 **Notice to health care facility.**

1008 (1) As used in this section:

1009 (a) "Department or agency" means the Utah Department of Corrections or a department
1010 of corrections or government entity responsible for placing an offender in a facility located in
1011 Utah.

1012 (b) "Chronically ill" has the same meaning as in Section 31A-36-102.

1013 (c) "Facility" means an assisted living facility as defined in ~~[Subsection 26-21-2(5)]~~
1014 Section 26B-2-201 and a nursing care facility as defined in ~~[Subsection 26-21-2(17)]~~ Section
1015 26B-2-201, except that transitional care units and other long term care beds owned or operated
1016 on the premises of acute care hospitals or critical care hospitals are not facilities for the purpose
1017 of this section.

1018 (d) "Offender" means an inmate whom the department or agency has given an early
1019 release, pardon, or parole due to a chronic or terminal illness.

- 1020 (e) "Terminally ill" has the same meaning as in Section [31A-36-102](#).
- 1021 (2) If an offender from Utah or any other state is admitted as a resident of a facility due
1022 to the chronic or terminal illness, the department or agency placing the offender shall:
- 1023 (a) provide written notice to the administrator of the facility no later than 15 days prior
1024 to the offender's admission as a resident of a facility, stating:
- 1025 (i) the offense for which the offender was convicted and a description of the actual
1026 offense;
- 1027 (ii) the offender's status with the department or agency;
- 1028 (iii) that the information provided by the department or agency regarding the offender
1029 shall be provided to employees of the facility no later than 10 days prior to the offender's
1030 admission to the facility; and
- 1031 (iv) the contact information for:
- 1032 (A) the offender's parole officer and also a point of contact within the department or
1033 agency, if the offender is on parole; and
- 1034 (B) a point of contact within the department or agency, if the offender is not under
1035 parole supervision but was given an early release or pardon due to a chronic or terminal illness;
- 1036 (b) make available to the public on the Utah Department of Corrections' website and
1037 upon request:
- 1038 (i) the name and address of the facility where the offender resides; and
- 1039 (ii) the date the offender was placed at the facility; and
- 1040 (c) provide a training program for employees who work in a facility where offenders
1041 reside, and if the offender is placed at the facility by:
- 1042 (i) the Utah Department of Corrections, the department shall provide the training
1043 program for the employees; and
- 1044 (ii) by a department or agency from another state, that state's department or agency
1045 shall arrange with the Utah Department of Corrections to provide the training required by this
1046 Subsection (2), if training has not already been provided by the Utah Department of
1047 Corrections, and shall provide to the Utah Department of Corrections any necessary
1048 compensation for this service.
- 1049 (3) The administrator of the facility shall:
- 1050 (a) provide residents of the facility or their guardians notice that a convicted felon is

1051 being admitted to the facility no later than 10 days prior to the offender's admission to the
1052 facility;

1053 (b) advise potential residents or their guardians of persons under Subsection (2) who
1054 are current residents of the facility; and

1055 (c) provide training, offered by the Utah Department of Corrections, in the safe
1056 management of offenders for all employees.

1057 (4) The Utah Department of Corrections shall make rules under Title 63G, Chapter 3,
1058 Utah Administrative Rulemaking Act, establishing:

1059 (a) a consistent format and procedure for providing notification to facilities and
1060 information to the public in compliance with Subsection (2); and

1061 (b) a training program, in compliance with Subsection (3) for employees, who work at
1062 facilities where offenders reside to ensure the safety of facility residents and employees.

1063 Section 15. Section ~~64-13-44~~ is amended to read:

1064 **64-13-44. Posthumous organ donations by inmates.**

1065 (1) As used in this section:

1066 (a) "Document of gift" [~~has the same meaning as in Section 26-28-102~~] means the
1067 same as that term is defined in Section 26B-8-301.

1068 (b) "Sign" [~~has the same meaning as in Section 26-28-102~~] means the same as that
1069 term is defined in Section 26B-8-301.

1070 (2) (a) The Utah Department of Corrections shall make available to each inmate a
1071 document of gift form that allows an inmate to indicate the inmate's desire to make an
1072 anatomical gift if the inmate dies while in the custody of the department.

1073 (b) If the inmate chooses to make an anatomical gift after death, the inmate shall
1074 complete a document of gift in accordance with the requirements of [~~Title 26, Chapter 28,~~
1075 ~~Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3, Revised Uniform
1076 Anatomical Gift Act.

1077 (c) The department shall maintain a record of the document of gift that an inmate
1078 provides to the department.

1079 (3) Notwithstanding Title 63G, Chapter 2, Government Records Access and
1080 Management Act, the department may, upon request, release to an organ procurement
1081 organization, as defined in Section [~~26-28-102~~] 26B-8-301, the names and addresses of all

1082 inmates who complete and sign the document of gift form indicating they intend to make an
1083 anatomical gift.

1084 (4) The making of an anatomical gift by an inmate under this section shall comply with
1085 [~~Title 26, Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3,
1086 Revised Uniform Anatomical Gift Act.

1087 (5) Notwithstanding anything in this section, the department shall not be considered to
1088 be an inmate's "guardian" for the purposes of [~~Title 26, Chapter 28, Revised Uniform~~
1089 ~~Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act.

1090 Section 16. Section **67-3-1** is amended to read:

1091 **67-3-1. Functions and duties.**

1092 (1) (a) The state auditor is the auditor of public accounts and is independent of any
1093 executive or administrative officers of the state.

1094 (b) The state auditor is not limited in the selection of personnel or in the determination
1095 of the reasonable and necessary expenses of the state auditor's office.

1096 (2) The state auditor shall examine and certify annually in respect to each fiscal year,
1097 financial statements showing:

1098 (a) the condition of the state's finances;

1099 (b) the revenues received or accrued;

1100 (c) expenditures paid or accrued;

1101 (d) the amount of unexpended or unencumbered balances of the appropriations to the
1102 agencies, departments, divisions, commissions, and institutions; and

1103 (e) the cash balances of the funds in the custody of the state treasurer.

1104 (3) (a) The state auditor shall:

1105 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
1106 any department of state government or any independent agency or public corporation as the law
1107 requires, as the auditor determines is necessary, or upon request of the governor or the
1108 Legislature;

1109 (ii) perform the audits in accordance with generally accepted auditing standards and
1110 other auditing procedures as promulgated by recognized authoritative bodies; and

1111 (iii) as the auditor determines is necessary, conduct the audits to determine:

1112 (A) honesty and integrity in fiscal affairs;

- 1113 (B) accuracy and reliability of financial statements;
1114 (C) effectiveness and adequacy of financial controls; and
1115 (D) compliance with the law.
- 1116 (b) If any state entity receives federal funding, the state auditor shall ensure that the
1117 audit is performed in accordance with federal audit requirements.
- 1118 (c) (i) The costs of the federal compliance portion of the audit may be paid from an
1119 appropriation to the state auditor from the General Fund.
- 1120 (ii) If an appropriation is not provided, or if the federal government does not
1121 specifically provide for payment of audit costs, the costs of the federal compliance portions of
1122 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
1123 bears to the total federal funds received by the state.
- 1124 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
1125 funds passed through the state to local governments and to reflect any reduction in audit time
1126 obtained through the use of internal auditors working under the direction of the state auditor.
- 1127 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
1128 financial audits, and as the auditor determines is necessary, conduct performance and special
1129 purpose audits, examinations, and reviews of any entity that receives public funds, including a
1130 determination of any or all of the following:
- 1131 (i) the honesty and integrity of all the entity's fiscal affairs;
1132 (ii) whether the entity's administrators have faithfully complied with legislative intent;
1133 (iii) whether the entity's operations have been conducted in an efficient, effective, and
1134 cost-efficient manner;
- 1135 (iv) whether the entity's programs have been effective in accomplishing the intended
1136 objectives; and
- 1137 (v) whether the entity's management, control, and information systems are adequate,
1138 effective, and secure.
- 1139 (b) The auditor may not conduct performance and special purpose audits,
1140 examinations, and reviews of any entity that receives public funds if the entity:
- 1141 (i) has an elected auditor; and
1142 (ii) has, within the entity's last budget year, had the entity's financial statements or
1143 performance formally reviewed by another outside auditor.

- 1144 (5) The state auditor:
- 1145 (a) shall administer any oath or affirmation necessary to the performance of the duties
- 1146 of the auditor's office; and
- 1147 (b) may:
- 1148 (i) subpoena witnesses and documents, whether electronic or otherwise; and
- 1149 (ii) examine into any matter that the auditor considers necessary.
- 1150 (6) The state auditor may require all persons who have had the disposition or
- 1151 management of any property of this state or its political subdivisions to submit statements
- 1152 regarding the property at the time and in the form that the auditor requires.
- 1153 (7) The state auditor shall:
- 1154 (a) except where otherwise provided by law, institute suits in Salt Lake County in
- 1155 relation to the assessment, collection, and payment of revenues against:
- 1156 (i) persons who by any means have become entrusted with public money or property
- 1157 and have failed to pay over or deliver the money or property; and
- 1158 (ii) all debtors of the state;
- 1159 (b) collect and pay into the state treasury all fees received by the state auditor;
- 1160 (c) perform the duties of a member of all boards of which the state auditor is a member
- 1161 by the constitution or laws of the state, and any other duties that are prescribed by the
- 1162 constitution and by law;
- 1163 (d) stop the payment of the salary of any state official or state employee who:
- 1164 (i) refuses to settle accounts or provide required statements about the custody and
- 1165 disposition of public funds or other state property;
- 1166 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
- 1167 board or department head with respect to the manner of keeping prescribed accounts or funds;
- 1168 or
- 1169 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the
- 1170 official's or employee's attention;
- 1171 (e) establish accounting systems, methods, and forms for public accounts in all taxing
- 1172 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;
- 1173 (f) superintend the contractual auditing of all state accounts;
- 1174 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of

1175 property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that
1176 officials and employees in those taxing units comply with state laws and procedures in the
1177 budgeting, expenditures, and financial reporting of public funds;

1178 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,
1179 if necessary, to ensure that officials and employees in the county comply with Section
1180 [59-2-303.1](#); and

1181 (i) withhold state allocated funds or the disbursement of property taxes from a local
1182 government entity or a limited purpose entity, as those terms are defined in Section [67-1a-15](#) if
1183 the state auditor finds the withholding necessary to ensure that the entity registers and
1184 maintains the entity's registration with the lieutenant governor, in accordance with Section
1185 [67-1a-15](#).

1186 (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds
1187 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal
1188 written notice of noncompliance from the auditor and has been given 60 days to make the
1189 specified corrections.

1190 (b) If, after receiving notice under Subsection (8)(a), a state or independent local
1191 fee-assessing unit that exclusively assesses fees has not made corrections to comply with state
1192 laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the
1193 state auditor:

1194 (i) shall provide a recommended timeline for corrective actions;

1195 (ii) may prohibit the state or local fee-assessing unit from accessing money held by the
1196 state; and

1197 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an
1198 account of a financial institution by filing an action in district court requesting an order of the
1199 court to prohibit a financial institution from providing the fee-assessing unit access to an
1200 account.

1201 (c) The state auditor shall remove a limitation on accessing funds under Subsection
1202 (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and
1203 financial reporting of public funds.

1204 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with
1205 state law, the state auditor:

- 1206 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to
1207 comply;
- 1208 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the
1209 state; and
- 1210 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an
1211 account of a financial institution by:
- 1212 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that
1213 the institution prohibit access to the account; or
- 1214 (B) filing an action in district court requesting an order of the court to prohibit a
1215 financial institution from providing the taxing or fee-assessing unit access to an account.
- 1216 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state
1217 law, the state auditor shall eliminate a limitation on accessing funds described in Subsection
1218 (8)(d).
- 1219 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has
1220 received formal written notice of noncompliance from the auditor and has been given 60 days
1221 to make the specified corrections.
- 1222 (10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state
1223 auditor receives a notice of non-registration, as that term is defined in Section [67-1a-15](#).
- 1224 (b) If the state auditor receives a notice of non-registration, the state auditor may
1225 prohibit the local government entity or limited purpose entity, as those terms are defined in
1226 Section [67-1a-15](#), from accessing:
- 1227 (i) money held by the state; and
- 1228 (ii) money held in an account of a financial institution by:
- 1229 (A) contacting the entity's financial institution and requesting that the institution
1230 prohibit access to the account; or
- 1231 (B) filing an action in district court requesting an order of the court to prohibit a
1232 financial institution from providing the entity access to an account.
- 1233 (c) The state auditor shall remove the prohibition on accessing funds described in
1234 Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in
1235 Section [67-1a-15](#), from the lieutenant governor.
- 1236 (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the

1237 state auditor:

1238 (a) shall authorize a disbursement by a local government entity or limited purpose
1239 entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing
1240 unit if the disbursement is necessary to:

1241 (i) avoid a major disruption in the operations of the local government entity, limited
1242 purpose entity, or state or local taxing or fee-assessing unit; or

1243 (ii) meet debt service obligations; and

1244 (b) may authorize a disbursement by a local government entity, limited purpose entity,
1245 or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

1246 (12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to
1247 take temporary custody of public funds if an action is necessary to protect public funds from
1248 being improperly diverted from their intended public purpose.

1249 (b) If the state auditor seeks relief under Subsection (12)(a):

1250 (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);
1251 and

1252 (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a
1253 court orders the public funds to be protected from improper diversion from their public
1254 purpose.

1255 (13) The state auditor shall:

1256 (a) establish audit guidelines and procedures for audits of local mental health and
1257 substance abuse authorities and their contract providers, conducted pursuant to Title 17,
1258 Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local
1259 Mental Health Authorities, Title 26B, Chapter 5, Health Care -- Substance Use and Mental
1260 Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
1261 Organizations, and Other Local Entities Act~~[-, and Title 62A, Chapter 15, Substance Abuse and~~
1262 ~~Mental Health Act]~~; and

1263 (b) ensure that those guidelines and procedures provide assurances to the state that:

1264 (i) state and federal funds appropriated to local mental health authorities are used for
1265 mental health purposes;

1266 (ii) a private provider under an annual or otherwise ongoing contract to provide
1267 comprehensive mental health programs or services for a local mental health authority is in

1268 compliance with state and local contract requirements, and state and federal law;
1269 (iii) state and federal funds appropriated to local substance abuse authorities are used
1270 for substance abuse programs and services; and
1271 (iv) a private provider under an annual or otherwise ongoing contract to provide
1272 comprehensive substance abuse programs or services for a local substance abuse authority is in
1273 compliance with state and local contract requirements, and state and federal law.
1274 (14) (a) The state auditor may, in accordance with the auditor's responsibilities for
1275 political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from
1276 Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or
1277 investigations of any political subdivision that are necessary to determine honesty and integrity
1278 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of
1279 financial controls and compliance with the law.
1280 (b) If the state auditor receives notice under Subsection 11-41-104(7) from the
1281 Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may
1282 initiate an audit or investigation of the public entity subject to the notice to determine
1283 compliance with Section 11-41-103.
1284 (15) (a) The state auditor may not audit work that the state auditor performed before
1285 becoming state auditor.
1286 (b) If the state auditor has previously been a responsible official in state government
1287 whose work has not yet been audited, the Legislature shall:
1288 (i) designate how that work shall be audited; and
1289 (ii) provide additional funding for those audits, if necessary.
1290 (16) The state auditor shall:
1291 (a) with the assistance, advice, and recommendations of an advisory committee
1292 appointed by the state auditor from among local district boards of trustees, officers, and
1293 employees and special service district boards, officers, and employees:
1294 (i) prepare a Uniform Accounting Manual for Local Districts that:
1295 (A) prescribes a uniform system of accounting and uniform budgeting and reporting
1296 procedures for local districts under Title 17B, Limited Purpose Local Government Entities -
1297 Local Districts, and special service districts under Title 17D, Chapter 1, Special Service
1298 District Act;

- 1299 (B) conforms with generally accepted accounting principles; and
1300 (C) prescribes reasonable exceptions and modifications for smaller districts to the
1301 uniform system of accounting, budgeting, and reporting;
- 1302 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to
1303 reflect generally accepted accounting principles;
- 1304 (iii) conduct a continuing review and modification of procedures in order to improve
1305 them;
- 1306 (iv) prepare and supply each district with suitable budget and reporting forms; and
1307 (v) (A) prepare instructional materials, conduct training programs, and render other
1308 services considered necessary to assist local districts and special service districts in
1309 implementing the uniform accounting, budgeting, and reporting procedures; and
1310 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title
1311 63G, Chapter 22, State Training and Certification Requirements; and
- 1312 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
1313 and experiences of specific local districts and special service districts selected by the state
1314 auditor and make the information available to all districts.
- 1315 (17) (a) The following records in the custody or control of the state auditor are
1316 protected records under Title 63G, Chapter 2, Government Records Access and Management
1317 Act:
- 1318 (i) records that would disclose information relating to allegations of personal
1319 misconduct, gross mismanagement, or illegal activity of a past or present governmental
1320 employee if the information or allegation cannot be corroborated by the state auditor through
1321 other documents or evidence, and the records relating to the allegation are not relied upon by
1322 the state auditor in preparing a final audit report;
- 1323 (ii) records and audit workpapers to the extent the workpapers would disclose the
1324 identity of an individual who during the course of an audit, communicated the existence of any
1325 waste of public funds, property, or manpower, or a violation or suspected violation of a law,
1326 rule, or regulation adopted under the laws of this state, a political subdivision of the state, or
1327 any recognized entity of the United States, if the information was disclosed on the condition
1328 that the identity of the individual be protected;
- 1329 (iii) before an audit is completed and the final audit report is released, records or drafts

1330 circulated to an individual who is not an employee or head of a governmental entity for the
1331 individual's response or information;

1332 (iv) records that would disclose an outline or part of any audit survey plans or audit
1333 program; and

1334 (v) requests for audits, if disclosure would risk circumvention of an audit.

1335 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure
1336 of records or information that relate to a violation of the law by a governmental entity or
1337 employee to a government prosecutor or peace officer.

1338 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to
1339 the state auditor to classify a document as public, private, controlled, or protected under Title
1340 63G, Chapter 2, Government Records Access and Management Act.

1341 (d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the
1342 state auditor and the subject of an audit performed by the state auditor as to whether the state
1343 auditor may release a record, as defined in Section 63G-2-103, to the public that the state
1344 auditor gained access to in the course of the state auditor's audit but which the subject of the
1345 audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records
1346 Access and Management Act.

1347 (ii) The state auditor may submit a record dispute to the State Records Committee,
1348 created in Section 63G-2-501, for a determination of whether the state auditor may, in
1349 conjunction with the state auditor's release of an audit report, release to the public the record
1350 that is the subject of the record dispute.

1351 (iii) The state auditor or the subject of the audit may seek judicial review of a State
1352 Records Committee determination under Subsection (17)(d)(ii), as provided in Section
1353 63G-2-404.

1354 (18) If the state auditor conducts an audit of an entity that the state auditor has
1355 previously audited and finds that the entity has not implemented a recommendation made by
1356 the state auditor in a previous audit, the state auditor shall notify the Legislative Management
1357 Committee through the Legislative Management Committee's audit subcommittee that the
1358 entity has not implemented that recommendation.

1359 (19) The state auditor shall, with the advice and consent of the Senate, appoint the state
1360 privacy officer described in Section 67-3-13.

1361 (20) The state auditor shall report, or ensure that another government entity reports, on
1362 the financial, operational, and performance metrics for the state system of higher education and
1363 the state system of public education, including metrics in relation to students, programs, and
1364 schools within those systems.

1365 Section 17. Section **67-3-11** is amended to read:

1366 **67-3-11. Health care price transparency tool -- Transparency tool requirements.**

1367 (1) The state auditor shall create a health care price transparency tool:

1368 (a) subject to appropriations from the Legislature and any available funding from
1369 third-party sources;

1370 (b) with technical support from the Public Employees' Benefit and Insurance Program
1371 created in Section [49-20-103](#), the Department of Health and Human Services, and the
1372 Insurance Department; and

1373 (c) in accordance with the requirements in Subsection (2).

1374 (2) A health care price transparency tool created by the state auditor under this section
1375 shall:

1376 (a) present health care price information for consumers in a manner that is clear and
1377 accurate;

1378 (b) be available to the public in a user-friendly manner;

1379 (c) incorporate existing data collected under Section [~~26-33a-106.1~~] [26B-8-504](#);

1380 (d) incorporate data collected under Section [~~26-61a-106~~] [26B-4-204](#), regarding fees
1381 for qualified medical providers recommending medical cannabis, as those terms are defined in
1382 Section [~~26-61a-102~~] [26B-4-201](#);

1383 (e) group billing codes for common health care procedures;

1384 (f) be updated on a regular basis; and

1385 (g) be created and operated in accordance with all applicable state and federal laws.

1386 (3) The state auditor may make the health care pricing data from the health care price
1387 transparency tool available to the public through an application program interface format if the
1388 data meets state and federal data privacy requirements.

1389 (4) (a) Before making a health care price transparency tool available to the public, the
1390 state auditor shall:

1391 (i) seek input from the Health Data Committee created in Section [26B-1-204](#) on the

1392 overall accuracy and effectiveness of the reports provided by the health care price transparency
1393 tool; and

1394 (ii) establish procedures to give data providers a 30-day period to review pricing
1395 information before the state auditor publishes the information on the health care price
1396 transparency tool.

1397 (b) If the state auditor complies with the requirements of Subsection (4)(a), the health
1398 care price transparency tool is not subject to the requirements of Section [~~26-33a-107~~]
1399 [26B-8-506](#).

1400 (5) Each year in which a health care price transparency tool is operational, the state
1401 auditor shall report to the Health and Human Services Interim Committee before November 1
1402 of that year:

1403 (a) the utilization of the health care price transparency tool; and

1404 (b) policy options for improving access to health care price transparency data.

1405 Section 18. Section **67-5-1** is amended to read:

1406 **67-5-1. General duties.**

1407 (1) The attorney general shall:

1408 (a) perform all duties in a manner consistent with the attorney-client relationship under
1409 Section [67-5-17](#);

1410 (b) except as provided in Sections [10-3-928](#) and [17-18a-403](#), attend the Supreme Court
1411 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
1412 defend all causes to which the state or any officer, board, or commission of the state in an
1413 official capacity is a party, and take charge, as attorney, of all civil legal matters in which the
1414 state is interested;

1415 (c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of
1416 process as necessary to execute the judgment;

1417 (d) account for, and pay over to the proper officer, all money that comes into the
1418 attorney general's possession that belongs to the state;

1419 (e) keep a file of all cases in which the attorney general is required to appear, including
1420 any documents and papers showing the court in which the cases have been instituted and tried,
1421 and whether they are civil or criminal, and:

1422 (i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to

1423 judgment, a memorandum of the judgment and of any process issued if satisfied, and if not
1424 satisfied, documentation of the return of the sheriff;

1425 (ii) if criminal, the nature of the crime, the mode of prosecution, the stage of
1426 proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the
1427 execution, if the sentence has been executed, and, if not executed, the reason for the delay or
1428 prevention; and

1429 (iii) deliver this information to the attorney general's successor in office;

1430 (f) exercise supervisory powers over the district and county attorneys of the state in all
1431 matters pertaining to the duties of the district and county attorneys' offices, including the
1432 authority described in Subsection (2);

1433 (g) give the attorney general's opinion in writing and without fee, when required, upon
1434 any question of law relating to the office of the requester:

1435 (i) in accordance with Section 67-5-1.1, to the Legislature or either house;

1436 (ii) to any state officer, board, or commission; and

1437 (iii) to any county attorney or district attorney;

1438 (h) when required by the public service or directed by the governor, assist any county,
1439 district, or city attorney in the discharge of county, district, or city attorney's duties;

1440 (i) purchase in the name of the state, under the direction of the state Board of
1441 Examiners, any property offered for sale under execution issued upon judgments in favor of or
1442 for the use of the state, and enter satisfaction in whole or in part of the judgments as the
1443 consideration of the purchases;

1444 (j) when the property of a judgment debtor in any judgment mentioned in Subsection
1445 (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance
1446 taking precedence of the judgment in favor of the state, redeem the property, under the
1447 direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and
1448 pay all money necessary for the redemption, upon the order of the state Board of Examiners,
1449 out of any money appropriated for these purposes;

1450 (k) when in the attorney general's opinion it is necessary for the collection or
1451 enforcement of any judgment, institute and prosecute on behalf of the state any action or
1452 proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment
1453 debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of

1454 Examiners, out of any money not otherwise appropriated;

1455 (l) discharge the duties of a member of all official boards of which the attorney general
1456 is or may be made a member by the Utah Constitution or by the laws of the state, and other
1457 duties prescribed by law;

1458 (m) institute and prosecute proper proceedings in any court of the state or of the United
1459 States to restrain and enjoin corporations organized under the laws of this or any other state or
1460 territory from acting illegally or in excess of their corporate powers or contrary to public
1461 policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and
1462 wind up their affairs;

1463 (n) institute investigations for the recovery of all real or personal property that may
1464 have escheated or should escheat to the state, and for that purpose, subpoena any persons
1465 before any of the district courts to answer inquiries and render accounts concerning any
1466 property, examine all books and papers of any corporations, and when any real or personal
1467 property is discovered that should escheat to the state, institute suit in the district court of the
1468 county where the property is situated for its recovery, and escheat that property to the state;

1469 (o) administer the Children's Justice Center as a program to be implemented in various
1470 counties pursuant to Sections [67-5b-101](#) through [67-5b-107](#);

1471 (p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a,
1472 Constitutional and Federalism Defense Act;

1473 (q) pursue any appropriate legal action to implement the state's public lands policy
1474 established in Section [63C-4a-103](#);

1475 (r) investigate and prosecute violations of all applicable state laws relating to fraud in
1476 connection with the state Medicaid program and any other medical assistance program
1477 administered by the state, including violations of [~~Title 26, Chapter 20, Utah False Claims Act~~]
1478 Title 26B, Chapter 3, Part 11, Utah False Claims Act;

1479 (s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:

1480 (i) in health care facilities that receive payments under the state Medicaid program;

1481 (ii) in board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.
1482 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

1483 (iii) who are receiving medical assistance under the Medicaid program as defined in
1484 Section [~~26-18-2~~] [26B-3-101](#) in a noninstitutional or other setting;

- 1485 (t) (i) report at least twice per year to the Legislative Management Committee on any
1486 pending or anticipated lawsuits, other than eminent domain lawsuits, that might:
1487 (A) cost the state more than \$500,000; or
1488 (B) require the state to take legally binding action that would cost more than \$500,000
1489 to implement; and
1490 (ii) if the meeting is closed, include an estimate of the state's potential financial or
1491 other legal exposure in that report;
1492 (u) (i) submit a written report to the committees described in Subsection (1)(u)(ii) that
1493 summarizes any lawsuit or decision in which a court or the Office of the Attorney General has
1494 determined that a state statute is unconstitutional or unenforceable since the attorney general's
1495 last report under this Subsection (1)(u), including any:
1496 (A) settlements reached;
1497 (B) consent decrees entered;
1498 (C) judgments issued;
1499 (D) preliminary injunctions issued;
1500 (E) temporary restraining orders issued; or
1501 (F) formal or informal policies of the Office of the Attorney General to not enforce a
1502 law; and
1503 (ii) at least 30 days before the Legislature's May and November interim meetings,
1504 submit the report described in Subsection (1)(u)(i) to:
1505 (A) the Legislative Management Committee;
1506 (B) the Judiciary Interim Committee; and
1507 (C) the Law Enforcement and Criminal Justice Interim Committee;
1508 (v) if the attorney general operates the Office of the Attorney General or any portion of
1509 the Office of the Attorney General as an internal service fund agency in accordance with
1510 Section 67-5-4, submit to the rate committee established in Section 67-5-34:
1511 (i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and
1512 (ii) any other information or analysis requested by the rate committee;
1513 (w) before the end of each calendar year, create an annual performance report for the
1514 Office of the Attorney General and post the report on the attorney general's website;
1515 (x) ensure that any training required under this chapter complies with Title 63G,

1516 Chapter 22, State Training and Certification Requirements;

1517 (y) notify the legislative general counsel in writing within three business days after the
1518 day on which the attorney general is officially notified of a claim, regardless of whether the
1519 claim is filed in state or federal court, that challenges:

1520 (i) the constitutionality of a state statute;

1521 (ii) the validity of legislation; or

1522 (iii) any action of the Legislature; and

1523 (z) (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a
1524 special advisor to the Office of the Governor and the Office of the Attorney General in matters
1525 relating to Native American and tribal issues to:

1526 (A) establish outreach to the tribes and affected counties and communities; and

1527 (B) foster better relations and a cooperative framework; and

1528 (ii) annually report to the Executive Offices and Criminal Justice Appropriations

1529 Subcommittee regarding:

1530 (A) the status of the work of the special advisor described in Subsection (1)(z)(i); and

1531 (B) whether the need remains for the ongoing appropriation to fund the special advisor
1532 described in Subsection (1)(z)(i).

1533 (2) (a) The attorney general may require a district attorney or county attorney of the
1534 state to, upon request, report on the status of public business entrusted to the district or county
1535 attorney's charge.

1536 (b) The attorney general may review investigation results de novo and file criminal
1537 charges, if warranted, in any case involving a first degree felony, if:

1538 (i) a law enforcement agency submits investigation results to the county attorney or
1539 district attorney of the jurisdiction where the incident occurred and the county attorney or
1540 district attorney:

1541 (A) declines to file criminal charges; or

1542 (B) fails to screen the case for criminal charges within six months after the law
1543 enforcement agency's submission of the investigation results; and

1544 (ii) after consultation with the county attorney or district attorney of the jurisdiction
1545 where the incident occurred, the attorney general reasonably believes action by the attorney
1546 general would not interfere with an ongoing investigation or prosecution by the county attorney

1547 or district attorney of the jurisdiction where the incident occurred.

1548 (c) If the attorney general decides to conduct a review under Subsection (2)(b), the
1549 district attorney, county attorney, and law enforcement agency shall, within 14 days after the
1550 day on which the attorney general makes a request, provide the attorney general with:

1551 (i) all information relating to the investigation, including all reports, witness lists,
1552 witness statements, and other documents created or collected in relation to the investigation;

1553 (ii) all recordings, photographs, and other physical or digital media created or collected
1554 in relation to the investigation;

1555 (iii) access to all evidence gathered or collected in relation to the investigation; and

1556 (iv) the identification of, and access to, all officers or other persons who have
1557 information relating to the investigation.

1558 (d) If a district attorney, county attorney, or law enforcement agency fails to timely
1559 comply with Subsection (2)(c), the attorney general may seek a court order compelling
1560 compliance.

1561 (e) If the attorney general seeks a court order under Subsection (2)(d), the court shall
1562 grant the order unless the district attorney, county attorney, or law enforcement agency shows
1563 good cause and a compelling interest for not complying with Subsection (2)(c).

1564 Section 19. Section **67-5-16** is amended to read:

1565 **67-5-16. Child protective services investigators within attorney general's office --**
1566 **Authority -- Training.**

1567 (1) The attorney general may employ, with the consent of the Division of Child and
1568 Family Services within the Department of [~~Human Services~~] Health and Human Services, and
1569 in accordance with Section **80-2-703**, child protective services investigators to investigate
1570 alleged instances of abuse or neglect of a child that occur while a child is in the custody of the
1571 Division of Child and Family Services. Those investigators may also investigate reports of
1572 abuse or neglect of a child by an employee of the Department of [~~Human Services~~] Health and
1573 Human Services, or involving a person or entity licensed to provide substitute care for children
1574 in the custody of the Division of Child and Family Services.

1575 (2) Attorneys who represent the Division of Child and Family Services under Section
1576 **67-5-17**, and child protective services investigators employed by the attorney general under
1577 Subsection (1), shall be trained on and implement into practice the following items, in order of

1578 preference and priority:

1579 (a) the priority of maintaining a child safely in the child's home, whenever possible;

1580 (b) the importance of:

1581 (i) kinship placement, in the event the child is removed from the home; and

1582 (ii) keeping sibling groups together, whenever practicable and in the best interests of
1583 the children;

1584 (c) the preference for kinship adoption over nonkinship adoption, if the parent-child
1585 relationship is legally terminated;

1586 (d) the potential for a guardianship placement if the parent-child relationship is legally
1587 terminated and no appropriate adoption placement is available; and

1588 (e) the use of an individualized permanency goal, only as a last resort.

1589 Section 20. Section **67-20-2** is amended to read:

1590 **67-20-2. Definitions.**

1591 As used in this chapter:

1592 (1) "Agency" means:

1593 (a) a department, institution, office, college, university, authority, division, board,
1594 bureau, commission, council, or other agency of the state;

1595 (b) a county, city, town, school district, or special improvement or taxing district; or

1596 (c) any other political subdivision.

1597 (2) "Compensatory service worker" means a person who performs a public service with
1598 or without compensation for an agency as a condition or part of the person's:

1599 (a) incarceration;

1600 (b) plea;

1601 (c) sentence;

1602 (d) diversion;

1603 (e) probation; or

1604 (f) parole.

1605 (3) "Emergency medical service volunteer" means an individual who:

1606 (a) provides services as a volunteer under the supervision of a supervising agency or
1607 government officer; and

1608 (b) at the time the individual provides the services described in Subsection (3)(a), is:

- 1609 (i) an emergency medical technician volunteer, a paramedic volunteer, an ambulance
1610 volunteer, a volunteer firefighter, or another volunteer provider of emergency medical services;
1611 and
- 1612 (ii) acting in the capacity of a volunteer described in Subsection (3)(b)(i).
- 1613 (4) "IRS aggregate amount" means the fixed or determinable income aggregate amount
1614 described in 26 C.F.R. Sec. 1.6041-1(a)(1)(i)(A).
- 1615 (5) (a) "Volunteer" means an individual who donates service without pay or other
1616 compensation except the following, as approved by the supervising agency:
- 1617 (i) expenses actually and reasonably incurred;
- 1618 (ii) a stipend for future higher education expenses, awarded from the National Service
1619 Trust under 45 C.F.R. Secs. 2526.10 and 2527.10;
- 1620 (iii) a stipend, below the IRS aggregate amount, for:
- 1621 (A) emergency volunteers, including emergency medical service volunteers, volunteer
1622 safety officers, and volunteer search and rescue team members; or
- 1623 (B) non-emergency volunteers, including senior program volunteers and community
1624 event volunteers;
- 1625 (iv) (A) health benefits provided through the supervising agency; or
- 1626 (B) for a volunteer who participates in the Volunteer Emergency Medical Service
1627 Personnel Health Insurance Program described in Section [~~26-8a-603~~] [26B-4-136](#), health
1628 insurance provided through the program.
- 1629 (v) passthrough stipends or other compensation provided to volunteers through a
1630 federal or state program, including Americorp Seniors volunteers, consistent with 42 U.S.C.
1631 Sec. 5058;
- 1632 (vi) stipends or other compensation, below the IRS aggregate amount, provided to
1633 volunteers from any person;
- 1634 (vii) uniforms, identification, personal protective equipment, or safety equipment used
1635 by a volunteer only while volunteering for the supervising entity;
- 1636 (viii) a nonpecuniary item not exceeding \$50 in value;
- 1637 (ix) nonpecuniary items, below the IRS aggregate amount, donated to the supervising
1638 agency with the express intent of benefitting a volunteer; or
- 1639 (x) meals or gifts, not exceeding \$50 in value, provided as part of a volunteers

1640 appreciation event by the volunteering agency.

1641 (b) "Volunteer" does not include:

1642 (i) a person participating in human subjects research to the extent that the participation
1643 is governed by federal law or regulation inconsistent with this chapter; or

1644 (ii) a compensatory service worker.

1645 (c) "Volunteer" includes a juror or potential juror appearing in response to a summons
1646 for a trial jury or grand jury.

1647 (6) "Volunteer facilitator" means a business or nonprofit organization that, from
1648 individuals who have a relationship with the business or nonprofit organization, such as
1649 membership or employment, provides volunteers to an agency or facilitates volunteers
1650 volunteering with an agency.

1651 (7) "Volunteer safety officer" means an individual who:

1652 (a) provides services as a volunteer under the supervision of an agency; and

1653 (b) at the time the individual provides the services to the supervising agency described
1654 in Subsection (7)(a), the individual is:

1655 (i) exercising peace officer authority as provided in Section 53-13-102; or

1656 (ii) if the supervising agency described in Subsection (7)(a) is a fire department:

1657 (A) on the rolls of the supervising agency as a firefighter;

1658 (B) not regularly employed as a firefighter by the supervising agency; and

1659 (C) acting in a capacity that includes the responsibility for the extinguishment of fire.

1660 (8) "Volunteer search and rescue team member" means an individual who:

1661 (a) provides services as a volunteer under the supervision of a county sheriff; and

1662 (b) at the time the individual provides the services to the county sheriff described in
1663 Subsection (8)(a), is:

1664 (i) certified as a member of the county sheriff's search and rescue team; and

1665 (ii) acting in the capacity of a member of the search and rescue team of the supervising
1666 county sheriff.

1667 Section 21. Section 71-11-5 is amended to read:

1668 **71-11-5. Operation of homes -- Rulemaking authority -- Selection of**
1669 **administrator.**

1670 (1) The department shall, subject to the approval of the executive director:

1671 (a) establish appropriate criteria for the admission and discharge of residents for each
1672 home, subject to the requirements in Section 71-11-6 and criteria set by the United States
1673 Department of Veterans Affairs;

1674 (b) establish a schedule of charges for each home in cases where residents have
1675 available resources;

1676 (c) establish standards for the operation of the homes not inconsistent with standards
1677 set by the United States Department of Veterans Affairs;

1678 (d) make rules to implement this chapter in accordance with Title 63G, Chapter 3, Utah
1679 Administrative Rulemaking Act; and

1680 (e) ensure that the homes are licensed in accordance with [~~Title 26, Chapter 21, Health~~
1681 ~~Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility
1682 Licensing and Inspection, and 38 U.S.C. Sec. 1742(a).

1683 (2) The department shall, after reviewing recommendations of the board, appoint an
1684 administrator for each home.

1685 Section 22. Section 72-6-107.5 is amended to read:

1686 **72-6-107.5. Construction of improvements of highway -- Contracts -- Health**
1687 **insurance coverage.**

1688 (1) As used in this section:

1689 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
1690 related to a single project.

1691 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.

1692 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or
1693 "operative" who:

1694 (i) works at least 30 hours per calendar week; and

1695 (ii) meets employer eligibility waiting requirements for health care insurance, which
1696 may not exceed the first day of the calendar month following 60 days after the day on which
1697 the individual is hired.

1698 (d) "Health benefit plan" means:

1699 (i) the same as that term is defined in Section 31A-1-301; or

1700 (ii) an employee welfare benefit plan:

1701 (A) established under the Employee Retirement Income Security Act of 1974, 29

1702 U.S.C. Sec. 1001 et seq.;

1703 (B) for an employer with 100 or more employees; and

1704 (C) in which the employer establishes a self-funded or partially self-funded group
1705 health plan to provide medical care for the employer's employees and dependents of the
1706 employees.

1707 (e) "Qualified health coverage" means the same as that term is defined in Section
1708 ~~[26-40-115]~~ [26B-3-909](#).

1709 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).

1710 (g) "Third party administrator" or "administrator" means the same as that term is
1711 defined in Section [31A-1-301](#).

1712 (2) Except as provided in Subsection (3), the requirements of this section apply to:

1713 (a) a contractor of a design or construction contract entered into by the department on
1714 or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than
1715 \$2,000,000; and

1716 (b) a subcontractor of a contractor of a design or construction contract entered into by
1717 the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or
1718 greater than \$1,000,000.

1719 (3) The requirements of this section do not apply to a contractor or subcontractor
1720 described in Subsection (2) if:

1721 (a) the application of this section jeopardizes the receipt of federal funds;

1722 (b) the contract is a sole source contract; or

1723 (c) the contract is an emergency procurement.

1724 (4) A person that intentionally uses change orders, contract modifications, or multiple
1725 contracts to circumvent the requirements of this section is guilty of an infraction.

1726 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
1727 department that the contractor has and will maintain an offer of qualified health coverage for
1728 the contractor's employees and the employees' dependents during the duration of the contract
1729 by submitting to the department a written statement that:

1730 (i) the contractor offers qualified health coverage that complies with Section
1731 ~~[26-40-115]~~ [26B-3-909](#);

1732 (ii) is from:

- 1733 (A) an actuary selected by the contractor or the contractor's insurer;
- 1734 (B) an underwriter who is responsible for developing the employer group's premium
1735 rates; or
- 1736 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
1737 an actuary or underwriter selected by a third party administrator; and
- 1738 (iii) was created within one year before the day on which the statement is submitted.
- 1739 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
1740 shall provide the actuary or underwriter selected by an administrator, as described in
1741 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's
1742 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the
1743 requirements of qualified health coverage.
- 1744 (ii) A contractor may not make a change to the contractor's contribution to the health
1745 benefit plan, unless the contractor provides notice to:
- 1746 (A) the actuary or underwriter selected by an administrator, as described in Subsection
1747 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in
1748 Subsection (5)(a) in compliance with this section; and
- 1749 (B) the department.
- 1750 (c) A contractor that is subject to the requirements of this section shall:
- 1751 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
1752 is subject to the requirements of this section shall obtain and maintain an offer of qualified
1753 health coverage for the subcontractor's employees and the employees' dependents during the
1754 duration of the subcontract; and
- 1755 (ii) obtain from a subcontractor that is subject to the requirements of this section a
1756 written statement that:
- 1757 (A) the subcontractor offers qualified health coverage that complies with Section
1758 ~~[26-40-115]~~ [26B-3-909](#);
- 1759 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an
1760 underwriter who is responsible for developing the employer group's premium rates, or if the
1761 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or
1762 underwriter selected by an administrator; and
- 1763 (C) was created within one year before the day on which the contractor obtains the

1764 statement.

1765 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage
1766 described in Subsection (5)(a) during the duration of the contract is subject to penalties in
1767 accordance with administrative rules adopted by the department under Subsection (6).

1768 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
1769 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

1770 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
1771 coverage described in Subsection (5)(c) during the duration of the subcontract is subject to
1772 penalties in accordance with administrative rules adopted by the department under Subsection
1773 (6).

1774 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
1775 an offer of qualified health coverage described in Subsection (5)(a).

1776 (6) The department shall adopt administrative rules:

1777 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1778 (b) in coordination with:

1779 (i) the Department of Environmental Quality in accordance with Section 19-1-206;

1780 (ii) the Department of Natural Resources in accordance with Section 79-2-404;

1781 (iii) the Division of Facilities Construction and Management in accordance with
1782 Section 63A-5b-607;

1783 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

1784 (v) a public transit district in accordance with Section 17B-2a-818.5; and

1785 (vi) the Legislature's Administrative Rules Review and General Oversight Committee;

1786 and

1787 (c) that establish:

1788 (i) the requirements and procedures a contractor and a subcontractor shall follow to
1789 demonstrate compliance with this section, including:

1790 (A) that a contractor or subcontractor's compliance with this section is subject to an
1791 audit by the department or the Office of the Legislative Auditor General;

1792 (B) that a contractor that is subject to the requirements of this section shall obtain a
1793 written statement described in Subsection (5)(a); and

1794 (C) that a subcontractor that is subject to the requirements of this section shall obtain a

1795 written statement described in Subsection (5)(c)(ii);

1796 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally

1797 violates the provisions of this section, which may include:

1798 (A) a three-month suspension of the contractor or subcontractor from entering into

1799 future contracts with the state upon the first violation;

1800 (B) a six-month suspension of the contractor or subcontractor from entering into future

1801 contracts with the state upon the second violation;

1802 (C) an action for debarment of the contractor or subcontractor in accordance with

1803 Section [63G-6a-904](#) upon the third or subsequent violation; and

1804 (D) monetary penalties which may not exceed 50% of the amount necessary to

1805 purchase qualified health coverage for an employee and a dependent of the employee of the

1806 contractor or subcontractor who was not offered qualified health coverage during the duration

1807 of the contract; and

1808 (iii) a website on which the department shall post the commercially equivalent

1809 benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by

1810 the Department of ~~[Health]~~ Health and Human Services, in accordance with Subsection

1811 ~~[26-40-115(2)]~~ [26B-3-909\(2\)](#).

1812 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor

1813 or subcontractor who intentionally violates the provisions of this section is liable to the

1814 employee for health care costs that would have been covered by qualified health coverage.

1815 (ii) An employer has an affirmative defense to a cause of action under Subsection

1816 (7)(a)(i) if:

1817 (A) the employer relied in good faith on a written statement described in Subsection

1818 (5)(a) or (5)(c)(ii); or

1819 (B) the department determines that compliance with this section is not required under

1820 the provisions of Subsection (3).

1821 (b) An employee has a private right of action only against the employee's employer to

1822 enforce the provisions of this Subsection (7).

1823 (8) Any penalties imposed and collected under this section shall be deposited into the

1824 Medicaid Restricted Account created in Section ~~[26-18-402]~~ [26B-1-309](#).

1825 (9) The failure of a contractor or subcontractor to provide qualified health coverage as

1826 required by this section:

1827 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
1828 or contractor under:

1829 (i) Section 63G-6a-1602; or

1830 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

1831 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
1832 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
1833 or construction.

1834 (10) An administrator, including an administrator's actuary or underwriter, who
1835 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health
1836 coverage of a contractor or subcontractor who provides a health benefit plan described in
1837 Subsection (1)(d)(ii):

1838 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,
1839 unless the administrator commits gross negligence in preparing the written statement;

1840 (b) is not liable for any error in the written statement if the administrator relied in good
1841 faith on information from the contractor or subcontractor; and

1842 (c) may require as a condition of providing the written statement that a contractor or
1843 subcontractor hold the administrator harmless for an action arising under this section.

1844 Section 23. Section 72-9-103 is amended to read:

1845 **72-9-103. Rulemaking -- Motor vehicle liability coverage for certain motor**
1846 **carriers -- Adjudicative proceedings.**

1847 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1848 department shall make rules:

1849 (a) adopting by reference in whole or in part the Federal Motor Carrier Safety
1850 Regulations including minimum security requirements for motor carriers;

1851 (b) specifying the equipment required to be carried in each tow truck, including limits
1852 on loads that may be moved based on equipment capacity and load weight; and

1853 (c) providing for the necessary administration and enforcement of this chapter.

1854 (2) (a) Notwithstanding Subsection (1)(a), the department shall not require a motor
1855 carrier to comply with 49 C.F.R. Part 387 Subpart B if the motor carrier is:

1856 (i) engaging in or transacting the business of transporting passengers by an intrastate

1857 commercial vehicle that has a seating capacity of no more than 30 passengers; and

1858 (ii) a licensed child care provider under Section ~~[26-39-401]~~ [26B-2-403](#).

1859 (b) Policies containing motor vehicle liability coverage for a motor carrier described
1860 under Subsection (2)(a) shall require minimum coverage of:

1861 (i) \$1,000,000 for a vehicle with a seating capacity of up to 20 passengers; or

1862 (ii) \$1,500,000 for a vehicle with a seating capacity of up to 30 passengers.

1863 (3) The department shall comply with Title 63G, Chapter 4, Administrative Procedures
1864 Act, in its adjudicative proceedings.

1865 Section 24. Section **72-10-502** is amended to read:

1866 **72-10-502. Implied consent to chemical tests for alcohol or drugs -- Number of**
1867 **tests -- Refusal -- Person incapable of refusal -- Results of test available -- Who may give**
1868 **test -- Evidence -- Immunity from liability.**

1869 (1) (a) A person operating an aircraft in this state consents to a chemical test or tests of
1870 the person's breath, blood, urine, or oral fluids:

1871 (i) for the purpose of determining whether the person was operating or in actual
1872 physical control of an aircraft while having a blood or breath alcohol content statutorily
1873 prohibited under Section [72-10-501](#), or while under the influence of alcohol, any drug, or
1874 combination of alcohol and any drug under Section [72-10-501](#), if the test is or tests are
1875 administered at the direction of a peace officer having grounds to believe that person to have
1876 been operating or in actual physical control of an aircraft in violation of Section [72-10-501](#); or

1877 (ii) if the person operating the aircraft is involved in an accident that results in death,
1878 serious injury, or substantial aircraft damage.

1879 (b) (i) The peace officer determines which of the tests are administered and how many
1880 of them are administered.

1881 (ii) The peace officer may order any or all tests of the person's breath, blood, urine, or
1882 oral fluids.

1883 (iii) If an officer requests more than one test, refusal by a person to take one or more
1884 requested tests, even though the person does submit to any other requested test or tests, is a
1885 refusal under this section.

1886 (c) (i) A person who has been requested under this section to submit to a chemical test
1887 or tests of the person's breath, blood, urine, or oral fluids may not select the test or tests to be

1888 administered.

1889 (ii) The failure or inability of a peace officer to arrange for any specific chemical test is
1890 not a defense to taking a test requested by a peace officer, and it is not a defense in any
1891 criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the
1892 requested test or tests.

1893 (2) (a) If the person has been placed under arrest and has then been requested by a
1894 peace officer to submit to any one or more of the chemical tests provided in Subsection (1) and
1895 refuses to submit to any chemical test, the person shall be warned by the peace officer
1896 requesting the test that a refusal to submit to the test is admissible in civil or criminal
1897 proceedings as provided under Subsection (8).

1898 (b) Following this warning, unless the person immediately requests that the chemical
1899 test offered by a peace officer be administered, a test may not be given.

1900 (3) A person who is dead, unconscious, or in any other condition rendering the person
1901 incapable of refusal to submit to any chemical test or tests is considered to not have withdrawn
1902 the consent provided for in Subsection (1), and the test or tests may be administered whether
1903 the person has been arrested or not.

1904 (4) Upon the request of the person who was tested, the results of the test or tests shall
1905 be made available to that person.

1906 (5) (a) Only the following, acting at the request of a peace officer, may draw blood to
1907 determine its alcohol or drug content:

1908 (i) a physician;

1909 (ii) a registered nurse;

1910 (iii) a licensed practical nurse;

1911 (iv) a paramedic;

1912 (v) as provided in Subsection (5)(b), emergency medical service personnel other than
1913 paramedics; or

1914 (vi) a person with a valid permit issued by the Department of ~~[Health]~~ Health and
1915 Human Services under Section ~~[26-1-30]~~ 26B-1-202.

1916 (b) The Department of ~~[Health]~~ Health and Human Services may designate by rule, in
1917 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency
1918 medical service personnel, as defined in Section ~~[26-8a-102]~~ 26B-4-101, are authorized to

1919 draw blood under Subsection (5)(a)(v), based on the type of license under Section [26-8a-302]
1920 [26B-4-116](#).

1921 (c) Subsection (5)(a) does not apply to taking a urine, breath, or oral fluid specimen.

1922 (d) The following are immune from civil or criminal liability arising from drawing a
1923 blood sample from a person who a peace officer has reason to believe is flying in violation of
1924 this chapter if the sample is drawn in accordance with standard medical practice:

1925 (i) a person authorized to draw blood under Subsection (5)(a); and

1926 (ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

1927 (6) (a) The person to be tested may, at the person's own expense, have a physician of
1928 the person's own choice administer a chemical test in addition to the test or tests administered
1929 at the direction of a peace officer.

1930 (b) The failure or inability to obtain the additional test does not affect admissibility of
1931 the results of the test or tests taken at the direction of a peace officer, or preclude or delay the
1932 test or tests to be taken at the direction of a peace officer.

1933 (c) The additional test shall be subsequent to the test or tests administered at the
1934 direction of a peace officer.

1935 (7) For the purpose of determining whether to submit to a chemical test or tests, the
1936 person to be tested does not have the right to consult an attorney or have an attorney, physician,
1937 or other person present as a condition for the taking of any test.

1938 (8) If a person under arrest refuses to submit to a chemical test or tests or any
1939 additional test under this section, evidence of any refusal is admissible in any civil or criminal
1940 action or proceeding arising out of acts alleged to have been committed while the person was
1941 operating or in actual physical control of an aircraft while under the influence of alcohol, any
1942 drug, or combination of alcohol and any drug.

1943 (9) The results of any test taken under this section or the refusal to be tested shall be
1944 reported to the Federal Aviation Administration by the peace officer requesting the test.

1945 (10) Notwithstanding the provisions of this section, a blood test taken under this
1946 section is subject to Section [77-23-213](#).

1947 Section 25. Section **75-1-107** is amended to read:

1948 **75-1-107. Evidence of death or status.**

1949 (1) In addition to the rules of evidence in courts of general jurisdiction, the following

1950 rules relating to a determination of death and status apply:

1951 (a) Death occurs when an individual is determined to be dead as provided in [~~Title 26,~~
1952 ~~Chapter 34, Uniform Determination of Death Act]~~ Section 26B-8-132.

1953 (b) A certified or authenticated copy of a death certificate purporting to be issued by an
1954 official or agency of the place where the death purportedly occurred is prima facie evidence of
1955 the fact, place, date, and time of death and the identity of the decedent.

1956 (c) A certified or authenticated copy of any record or report of a governmental agency,
1957 domestic or foreign, that an individual is missing, detained, dead, or alive is prima facie
1958 evidence of the status and of the dates, circumstances, and places disclosed by the record or
1959 report.

1960 (d) In the absence of prima facie evidence of death under Subsection (1)(b) or (c), the
1961 fact of death may be established by clear and convincing evidence, including circumstantial
1962 evidence.

1963 (e) An individual whose death is not established under Subsection (1)(a), (b), (c) or (d)
1964 who is absent for a continuous period of five years, during which the individual has not been
1965 heard from, and whose absence is not satisfactorily explained after diligent search or inquiry, is
1966 presumed to be dead. The individual's death is presumed to have occurred at the end of the
1967 period unless there is sufficient evidence for determining that death occurred earlier.

1968 (f) In the absence of evidence disputing the time of death stated on a document
1969 described in Subsection (1)(b) or (c), a document described in Subsection (1)(b) or (c) that
1970 states a time of death 120 hours or more after the time of death of another individual, however
1971 the time of death of the other individual is determined, establishes by clear and convincing
1972 evidence that the individual survived the other individual by 120 hours.

1973 (2) The right and duty to control the disposition of a deceased person shall be governed
1974 by Sections 58-9-601 through 58-9-604.

1975 Section 26. Section **75-2a-103** is amended to read:

1976 **75-2a-103. Definitions.**

1977 As used in this chapter:

1978 (1) "Adult" means an individual who is:

1979 (a) at least 18 years of age; or

1980 (b) an emancipated minor.

- 1981 (2) "Advance health care directive":
1982 (a) includes:
1983 (i) a designation of an agent to make health care decisions for an adult when the adult
1984 cannot make or communicate health care decisions; or
1985 (ii) an expression of preferences about health care decisions;
1986 (b) may take one of the following forms:
1987 (i) a written document, voluntarily executed by an adult in accordance with the
1988 requirements of this chapter; or
1989 (ii) a witnessed oral statement, made in accordance with the requirements of this
1990 chapter; and
1991 (c) does not include a POLST order.
1992 (3) "Agent" means an adult designated in an advance health care directive to make
1993 health care decisions for the declarant.
1994 (4) "APRN" means an individual who is:
1995 (a) certified or licensed as an advance practice registered nurse under Subsection
1996 58-31b-301(2)(e);
1997 (b) an independent practitioner;
1998 (c) acting under a consultation and referral plan with a physician; and
1999 (d) acting within the scope of practice for that individual, as provided by law, rule, and
2000 specialized certification and training in that individual's area of practice.
2001 (5) "Best interest" means that the benefits to the person resulting from a treatment
2002 outweigh the burdens to the person resulting from the treatment, taking into account:
2003 (a) the effect of the treatment on the physical, emotional, and cognitive functions of the
2004 person;
2005 (b) the degree of physical pain or discomfort caused to the person by the treatment or
2006 the withholding or withdrawal of treatment;
2007 (c) the degree to which the person's medical condition, the treatment, or the
2008 withholding or withdrawal of treatment, result in a severe and continuing impairment of the
2009 dignity of the person by subjecting the person to humiliation and dependency;
2010 (d) the effect of the treatment on the life expectancy of the person;
2011 (e) the prognosis of the person for recovery with and without the treatment;

2012 (f) the risks, side effects, and benefits of the treatment, or the withholding or
2013 withdrawal of treatment; and

2014 (g) the religious beliefs and basic values of the person receiving treatment, to the extent
2015 these may assist the decision maker in determining the best interest.

2016 (6) "Capacity to appoint an agent" means that the adult understands the consequences
2017 of appointing a particular person as agent.

2018 (7) "Declarant" means an adult who has completed and signed or directed the signing
2019 of an advance health care directive.

2020 (8) "Default surrogate" means the adult who may make decisions for an individual
2021 when either:

2022 (a) an agent or guardian has not been appointed; or

2023 (b) an agent is not able, available, or willing to make decisions for an adult.

2024 (9) "Emergency medical services provider" means a person that is licensed, designated,
2025 or certified under [~~Title 26, Chapter 8a, Utah Emergency Medical Services System Act~~] Title
2026 26B, Chapter 4, Part 1, Utah Emergency Medical Services System.

2027 (10) "Generally accepted health care standards":

2028 (a) is defined only for the purpose of:

2029 (i) this chapter and does not define the standard of care for any other purpose under
2030 Utah law; and

2031 (ii) enabling health care providers to interpret the statutory form set forth in Section
2032 [75-2a-117](#); and

2033 (b) means the standard of care that justifies a provider in declining to provide life
2034 sustaining care because the proposed life sustaining care:

2035 (i) will not prevent or reduce the deterioration in the health or functional status of an
2036 individual;

2037 (ii) will not prevent the impending death of an individual; or

2038 (iii) will impose more burden on the individual than any expected benefit to the person.

2039 (11) "Health care" means any care, treatment, service, or procedure to improve,
2040 maintain, diagnose, or otherwise affect an individual's physical or mental condition.

2041 (12) "Health care decision":

2042 (a) means a decision about an adult's health care made by, or on behalf of, an adult, that

2043 is communicated to a health care provider;

2044 (b) includes:

2045 (i) selection and discharge of a health care provider and a health care facility;

2046 (ii) approval or disapproval of diagnostic tests, procedures, programs of medication,

2047 and orders not to resuscitate; and

2048 (iii) directions to provide, withhold, or withdraw artificial nutrition and hydration and

2049 all other forms of health care; and

2050 (c) does not include decisions about an adult's financial affairs or social interactions

2051 other than as indirectly affected by the health care decision.

2052 (13) "Health care decision making capacity" means an adult's ability to make an

2053 informed decision about receiving or refusing health care, including:

2054 (a) the ability to understand the nature, extent, or probable consequences of health

2055 status and health care alternatives;

2056 (b) the ability to make a rational evaluation of the burdens, risks, benefits, and

2057 alternatives of accepting or rejecting health care; and

2058 (c) the ability to communicate a decision.

2059 (14) "Health care facility" means:

2060 (a) a health care facility as defined in [~~Title 26, Chapter 21, Health Care Facility~~

2061 ~~Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and

2062 Inspection; and

2063 (b) private offices of physicians, dentists, and other health care providers licensed to

2064 provide health care under Title 58, Occupations and Professions.

2065 (15) "Health care provider" means the same as that term is defined in Section

2066 [78B-3-403](#), except that "health care provider" does not include an emergency medical services

2067 provider.

2068 (16) (a) "Life sustaining care" means any medical intervention, including procedures,

2069 administration of medication, or use of a medical device, that maintains life by sustaining,

2070 restoring, or supplanting a vital function.

2071 (b) "Life sustaining care" does not include care provided for the purpose of keeping an

2072 individual comfortable.

2073 (17) "Minor" means an individual who:

2074 (a) is under 18 years old; and
2075 (b) is not an emancipated minor.
2076 (18) "Physician" means a physician and surgeon or osteopathic surgeon licensed under
2077 Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical
2078 Practice Act.
2079 (19) "Physician assistant" means an individual licensed as a physician assistant under
2080 Title 58, Chapter 70a, Utah Physician Assistant Act.
2081 (20) "POLST order" means an order, on a form designated by the Department of
2082 [Health] Health and Human Services under Section 75-2a-106, that gives direction to health
2083 care providers, health care facilities, and emergency medical services providers regarding the
2084 specific health care decisions of the individual to whom the order relates.
2085 (21) "Reasonably available" means:
2086 (a) readily able to be contacted without undue effort; and
2087 (b) willing and able to act in a timely manner considering the urgency of the
2088 circumstances.
2089 (22) "Substituted judgment" means the standard to be applied by a surrogate when
2090 making a health care decision for an adult who previously had the capacity to make health care
2091 decisions, which requires the surrogate to consider:
2092 (a) specific preferences expressed by the adult:
2093 (i) when the adult had the capacity to make health care decisions; and
2094 (ii) at the time the decision is being made;
2095 (b) the surrogate's understanding of the adult's health care preferences;
2096 (c) the surrogate's understanding of what the adult would have wanted under the
2097 circumstances; and
2098 (d) to the extent that the preferences described in Subsections (22)(a) through (c) are
2099 unknown, the best interest of the adult.
2100 (23) "Surrogate" means a health care decision maker who is:
2101 (a) an appointed agent;
2102 (b) a default surrogate under the provisions of Section 75-2a-108; or
2103 (c) a guardian.
2104 Section 27. Section **75-2a-106** is amended to read:

2105 **75-2a-106. Emergency medical services -- POLST order.**

2106 (1) A POLST order may be created by or on behalf of a person as described in this
2107 section.

2108 (2) A POLST order shall, in consultation with the person authorized to consent to the
2109 order pursuant to this section, be prepared by:

2110 (a) the physician, APRN, or, subject to Subsection (11), physician assistant of the
2111 person to whom the POLST order relates; or

2112 (b) a health care provider who:

2113 (i) is acting under the supervision of a person described in Subsection (2)(a); and

2114 (ii) is:

2115 (A) a nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;

2116 (B) a physician assistant, licensed under Title 58, Chapter 70a, Utah Physician

2117 Assistant Act;

2118 (C) a mental health professional, licensed under Title 58, Chapter 60, Mental Health
2119 Professional Practice Act; or

2120 (D) another health care provider, designated by rule as described in Subsection (10).

2121 (3) A POLST order shall be signed:

2122 (a) personally, by the physician, APRN, or, subject to Subsection (11), physician
2123 assistant of the person to whom the POLST order relates; and

2124 (b) (i) if the person to whom the POLST order relates is an adult with health care
2125 decision making capacity, by:

2126 (A) the person; or

2127 (B) an adult who is directed by the person to sign the POLST order on behalf of the
2128 person;

2129 (ii) if the person to whom the POLST order relates is an adult who lacks health care
2130 decision making capacity, by:

2131 (A) the surrogate with the highest priority under Section [75-2a-111](#);

2132 (B) the majority of the class of surrogates with the highest priority under Section
2133 [75-2a-111](#); or

2134 (C) a person directed to sign the POLST order by, and on behalf of, the persons
2135 described in Subsection (3)(b)(ii)(A) or (B); or

2136 (iii) if the person to whom the POLST order relates is a minor, by a parent or guardian
2137 of the minor.

2138 (4) If a POLST order relates to a minor and directs that life sustaining treatment be
2139 withheld or withdrawn from the minor, the order shall include a certification by two physicians
2140 that, in their clinical judgment, an order to withhold or withdraw life sustaining treatment is in
2141 the best interest of the minor.

2142 (5) A POLST order:

2143 (a) shall be in writing, on a form designated by the Department of ~~[Health]~~ Health and
2144 Human Services;

2145 (b) shall state the date on which the POLST order was made;

2146 (c) may specify the level of life sustaining care to be provided to the person to whom
2147 the order relates; and

2148 (d) may direct that life sustaining care be withheld or withdrawn from the person to
2149 whom the order relates.

2150 (6) A health care provider or emergency medical service provider, licensed or certified
2151 under ~~[Title 26, Chapter 8a, Utah Emergency Medical Services System Act]~~ Title 26B, Chapter
2152 4, Part 1, Utah Emergency Medical Services System, is immune from civil or criminal liability,
2153 and is not subject to discipline for unprofessional conduct, for:

2154 (a) complying with a POLST order in good faith; or

2155 (b) providing life sustaining treatment to a person when a POLST order directs that the
2156 life sustaining treatment be withheld or withdrawn.

2157 (7) To the extent that the provisions of a POLST order described in this section conflict
2158 with the provisions of an advance health care directive made under Section [75-2a-107](#), the
2159 provisions of the POLST order take precedence.

2160 (8) An adult, or a parent or guardian of a minor, may revoke a POLST order by:

2161 (a) orally informing emergency service personnel;

2162 (b) writing "void" across the POLST order form;

2163 (c) burning, tearing, or otherwise destroying or defacing:

2164 (i) the POLST order form; or

2165 (ii) a bracelet or other evidence of the POLST order;

2166 (d) asking another adult to take the action described in this Subsection (8) on the

2167 person's behalf;

2168 (e) signing or directing another adult to sign a written revocation on the person's
2169 behalf;

2170 (f) stating, in the presence of an adult witness, that the person wishes to revoke the
2171 order; or

2172 (g) completing a new POLST order.

2173 (9) (a) Except as provided in Subsection (9)(c), a surrogate for an adult who lacks
2174 health care decision making capacity may only revoke a POLST order if the revocation is
2175 consistent with the substituted judgment standard.

2176 (b) Except as provided in Subsection (9)(c), a surrogate who has authority under this
2177 section to sign a POLST order may revoke a POLST order, in accordance with Subsection
2178 (9)(a), by:

2179 (i) signing a written revocation of the POLST order; or

2180 (ii) completing and signing a new POLST order.

2181 (c) A surrogate may not revoke a POLST order during the period of time beginning
2182 when an emergency service provider is contacted for assistance, and ending when the
2183 emergency ends.

2184 (10) (a) The Department of [~~Health~~] Health and Human Services shall make rules, in
2185 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

2186 (i) create the forms and systems described in this section; and

2187 (ii) develop uniform instructions for the form established in Section [75-2a-117](#).

2188 (b) The Department of [~~Health~~] Health and Human Services may make rules, in
2189 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to designate
2190 health care professionals, in addition to those described in Subsection (2)(b)(ii), who may
2191 prepare a POLST order.

2192 (c) The Department of [~~Health~~] Health and Human Services may assist others with
2193 training of health care professionals regarding this chapter.

2194 (11) A physician assistant may not prepare or sign a POLST order, unless the physician
2195 assistant is permitted to prepare or sign the POLST order under the physician assistant's
2196 delegation of services agreement, as defined in Section [58-70a-102](#).

2197 (12) (a) Notwithstanding any other provision of this section:

2198 (i) the provisions of Title 46, Chapter 4, Uniform Electronic Transactions Act, apply to
2199 any signature required on the POLST order; and

2200 (ii) a verbal confirmation satisfies the requirement for a signature from an individual
2201 under Subsection (3)(b)(ii) or (iii), if:

2202 (A) requiring the individual described in Subsection (3)(b)(i)(B), (ii), or (iii) to sign the
2203 POLST order in person or electronically would require significant difficulty or expense; and

2204 (B) a licensed health care provider witnesses the verbal confirmation and signs the
2205 POLST order attesting that the health care provider witnessed the verbal confirmation.

2206 (b) The health care provider described in Subsection (12)(a)(ii)(B):

2207 (i) may not be the same individual who signs the POLST order under Subsection
2208 (3)(a); and

2209 (ii) shall verify, in accordance with HIPAA as defined in Section [~~26-18-17~~]

2210 [26B-3-126](#), the identity of the individual who is providing the verbal confirmation.

2211 Section 28. Section **75-3-104.5** is amended to read:

2212 **75-3-104.5. Notice to the Office of Recovery Services.**

2213 Within 30 days after the day on which a person files an application or a petition for
2214 probate under this chapter for a decedent who was at least 55 years old, the court shall provide
2215 notice of the application or petition to the Office of Recovery Services created in Section
2216 [~~62A-1-105~~] [26B-9-103](#) for purposes of presentation or enforcement of a lien or claim under
2217 Section [~~26-19-405~~] [26B-3-1013](#).

2218 Section 29. Section **75-3-803** is amended to read:

2219 **75-3-803. Limitations on presentation of claims.**

2220 (1) All claims against a decedent's estate which arose before the death of the decedent,
2221 including claims of the state and any subdivision of it, whether due or to become due, absolute
2222 or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not
2223 barred earlier by other statute of limitations, are barred against the estate, the personal
2224 representative, and the heirs and devisees of the decedent, unless presented within the earlier of
2225 the following dates:

2226 (a) one year after the decedent's death; or

2227 (b) within the time provided by Subsection [75-3-801](#)(2) for creditors who are given
2228 actual notice, and where notice is published, within the time provided in Subsection

2229 75-3-801(1) for all claims barred by publication.

2230 (2) In all events, claims barred by the nonclaim statute at the decedent's domicile are
2231 also barred in this state.

2232 (3) All claims against a decedent's estate which arise at or after the death of the
2233 decedent, including claims of the state and any of its subdivisions, whether due or to become
2234 due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal
2235 basis are barred against the estate, the personal representative, and the heirs and devisees of the
2236 decedent, unless presented as follows:

2237 (a) a claim based on a contract with the personal representative within three months
2238 after performance by the personal representative is due; or

2239 (b) any other claim within the later of three months after it arises, or the time specified
2240 in Subsection (1)(a).

2241 (4) Nothing in this section affects or prevents:

2242 (a) any proceeding to enforce any mortgage, pledge, or other lien upon property of the
2243 estate;

2244 (b) to the limits of the insurance protection only, any proceeding to establish liability of
2245 the decedent or the personal representative for which the decedent or the personal
2246 representative is protected by liability insurance;

2247 (c) collection of compensation for services rendered and reimbursement for expenses
2248 advanced by the personal representative or by the attorney or accountant for the personal
2249 representative of the estate; or

2250 (d) medical assistance recovery under [~~Title 26, Chapter 19, Medical Benefits~~
2251 ~~Recovery Act~~] Title 26B, Chapter 3, Part 10, Medical Benefits Recovery.

2252 (5) If a personal representative has not been timely appointed in accordance with this
2253 chapter, one may be appointed for the limited purposes of Subsection (4)(b) for any claim
2254 timely brought against the decedent.

2255 Section 30. Section 75-3-805 is amended to read:

2256 **75-3-805. Classification of claims.**

2257 (1) If the applicable assets of the estate are insufficient to pay all claims in full, the
2258 personal representative shall make payment in the following order:

2259 (a) reasonable funeral expenses;

- 2260 (b) costs and expenses of administration;
- 2261 (c) debts and taxes with preference under federal law;
- 2262 (d) reasonable and necessary medical and hospital expenses of the last illness of the
- 2263 decedent, including compensation of persons attending the decedent, and medical assistance if
- 2264 Section ~~[26-19-405]~~ 26B-3-1013 applies;
- 2265 (e) debts and taxes with preference under other laws of this state; and
- 2266 (f) all other claims.
- 2267 (2) No preference shall be given in the payment of any claim over any other claim of
- 2268 the same class, and a claim due and payable shall not be entitled to a preference over claims not
- 2269 due.
- 2270 Section 31. Section **75-5-309** is amended to read:
- 2271 **75-5-309. Notices in guardianship proceedings.**
- 2272 (1) In a proceeding for the appointment or removal of a guardian of an incapacitated
- 2273 person other than the appointment of an emergency guardian or temporary suspension of a
- 2274 guardian, notice of hearing shall be given to each of the following:
- 2275 (a) the ward or the person alleged to be incapacitated and spouse, parents, and adult
- 2276 children of the ward or person;
- 2277 (b) any person who is serving as guardian or conservator or who has care and custody
- 2278 of the ward or person;
- 2279 (c) in case no other person is notified under Subsection (1)(a), at least one of the
- 2280 closest adult relatives, if any can be found;
- 2281 (d) any guardian appointed by the will of the parent who died later or spouse of the
- 2282 incapacitated person; and
- 2283 (e) Adult Protective Services if Adult Protective Services has received a referral under
- 2284 ~~[Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult]~~ Title
- 2285 26B, Chapter 6, Part 2, Abuse, Neglect, or Exploitation of a Vulnerable Adult, concerning the
- 2286 welfare of the ward or person alleged to be incapacitated or concerning the guardian or
- 2287 conservator or proposed guardian or conservator.
- 2288 (2) The notice shall be in plain language and large type and the form shall have the
- 2289 final approval of the Judicial Council. The notice shall indicate the time and place of the
- 2290 hearing, the possible adverse consequences to the person receiving notice of rights, a list of

2291 rights, including the person's own or a court appointed counsel, and a copy of the petition.

2292 (3) Notice shall be served personally on the alleged incapacitated person and the
2293 person's spouse and parents if they can be found within the state. Notice to the spouse and
2294 parents, if they cannot be found within the state, and to all other persons except the alleged
2295 incapacitated person shall be given as provided in Section 75-1-401. Waiver of notice by the
2296 person alleged to be incapacitated is not effective unless the person attends the hearing or the
2297 person's waiver of notice is confirmed in an interview with the visitor appointed pursuant to
2298 Section 75-5-303.

2299 Section 32. Section 75-5-311 is amended to read:

2300 **75-5-311. Who may be guardian -- Priorities.**

2301 (1) As used in this section:

2302 (a) "Specialized care professional" means a person who is certified as a National
2303 Certified Guardian or National Master Guardian by the Center for Guardianship Certification
2304 or similar organization.

2305 (b) "Suitable institution" means any nonprofit or for profit corporation, partnership,
2306 sole proprietorship, or other type of business organization that is owned, operated by, or
2307 employs a specialized care professional.

2308 (2) The court shall appoint a guardian in accordance with the incapacitated person's
2309 most recent nomination, unless that person is disqualified or the court finds other good cause
2310 why the person should not serve as guardian. That nomination shall have been made prior to
2311 the person's incapacity, shall be in writing and shall be signed by the person making the
2312 nomination. The nomination shall be in substantially the following form:

2313 Nomination of Guardian by an Adult

2314 I, (Name), being of sound mind and not acting under duress, fraud, or other undue
2315 influence, do hereby nominate (Name, current residence, and relationship, if any, of the
2316 nominee) to serve as my guardian in the event that after the date of this instrument I become
2317 incapacitated.

2318 Executed at _____ (city, state)

2319 on this _____ day of _____

2320 _____

2321 (Signature)

2322 (3) Except as provided in Subsection (2), persons who are not disqualified have
2323 priority for appointment as guardian in the following order:

2324 (a) a person who has been nominated by the incapacitated person, by any means other
2325 than that described in Subsection (2), if the incapacitated person was 14 years of age or older
2326 when the nomination was executed and, in the opinion of the court, that person acted with
2327 sufficient mental capacity to make the nomination;

2328 (b) the spouse of the incapacitated person;

2329 (c) an adult child of the incapacitated person;

2330 (d) a parent of the incapacitated person, including a person nominated by will, written
2331 instrument, or other writing signed by a deceased parent;

2332 (e) any relative of the incapacitated person with whom he has resided for more than six
2333 months prior to the filing of the petition;

2334 (f) a person nominated by the person who is caring for him or paying benefits to him;

2335 (g) a specialized care professional, so long as the specialized care professional does
2336 not:

2337 (i) profit financially or otherwise from or receive compensation for acting in that
2338 capacity, except for the direct costs of providing guardianship or conservatorship services; or

2339 (ii) otherwise have a conflict of interest in providing those services;

2340 (h) any competent person or suitable institution; or

2341 (i) the Office of Public Guardian under [~~Title 62A, Chapter 14, Office of Public~~
2342 ~~Guardian Act~~] Title 26B, Chapter 6, Part 3, Office of Public Guardian.

2343 Section 33. Section **75-7-508** is amended to read:

2344 **75-7-508. Notice to creditors.**

2345 (1) (a) A trustee for an inter vivos revocable trust, upon the death of the settlor, may
2346 publish a notice to creditors:

2347 (i) once a week for three successive weeks in a newspaper of general circulation in the
2348 county where the settlor resided at the time of death; and

2349 (ii) in accordance with Section [45-1-101](#) for three weeks.

2350 (b) The notice required by Subsection (1)(a) shall:

2351 (i) provide the trustee's name and address; and

2352 (ii) notify creditors:

2353 (A) of the deceased settlor; and

2354 (B) to present their claims within three months after the date of the first publication of
2355 the notice or be forever barred from presenting the claim.

2356 (2) A trustee shall give written notice by mail or other delivery to any known creditor
2357 of the deceased settlor, notifying the creditor to present the creditor's claim within 90 days from
2358 the published notice if given as provided in Subsection (1) or within 60 days from the mailing
2359 or other delivery of the notice, whichever is later, or be forever barred. Written notice shall be
2360 the notice described in Subsection (1) or a similar notice.

2361 (3) (a) If the deceased settlor received medical assistance, as defined in Section
2362 [~~26-19-102~~] [26B-3-1001](#), at any time after the age of 55, the trustee for an inter vivos revocable
2363 trust, upon the death of the settlor, shall mail or deliver written notice to the Director of the
2364 Office of Recovery Services, on behalf of the Department of [~~Health~~] Health and Human
2365 Services, to present any claim under Section [~~26-19-405~~] [26B-3-1013](#) within 60 days from the
2366 mailing or other delivery of notice, whichever is later, or be forever barred.

2367 (b) If the trustee does not mail notice to the director of the Office of Recovery Services
2368 on behalf of the department in accordance with Subsection (3)(a), the department shall have
2369 one year from the death of the settlor to present its claim.

2370 (4) The trustee is not liable to any creditor or to any successor of the deceased settlor
2371 for giving or failing to give notice under this section.

2372 (5) The notice to creditors shall be valid against any creditor of the trust and also
2373 against any creditor of the estate of the deceased settlor.

2374 Section 34. Section **75-7-509** is amended to read:

2375 **75-7-509. Limitations on presentation of claims.**

2376 (1) All claims against a deceased settlor which arose before the death of the deceased
2377 settlor, whether due or to become due, absolute or contingent, liquidated or unliquidated,
2378 founded on contract, tort, or other legal basis, if not barred earlier by other statute of
2379 limitations, are barred against the deceased settlor's estate, the trustee, the trust estate, and the
2380 beneficiaries of the deceased settlor's trust, unless presented within the earlier of the following:

2381 (a) one year after the settlor's death; or

2382 (b) the time provided by Subsection [75-7-508](#)(2) or (3) for creditors who are given
2383 actual notice, and where notice is published, within the time provided in Subsection

2384 75-7-508(1) for all claims barred by publication.

2385 (2) In all events, claims barred by the nonclaim statute at the deceased settlor's
2386 domicile are also barred in this state.

2387 (3) All claims against a deceased settlor's estate or trust estate which arise at or after
2388 the death of the settlor, whether due or to become due, absolute or contingent, liquidated or
2389 unliquidated, founded on contract, tort, or other legal basis are barred against the deceased
2390 settlor's estate, the trustee, the trust estate, and the beneficiaries of the deceased settlor, unless
2391 presented as follows:

2392 (a) a claim based on a contract with the trustee within three months after performance
2393 by the trustee is due; or

2394 (b) any other claim within the later of three months after it arises, or the time specified
2395 in Subsection (1).

2396 (4) Nothing in this section affects or prevents:

2397 (a) any proceeding to enforce any mortgage, pledge, or other lien upon property of the
2398 deceased settlor's estate or the trust estate;

2399 (b) to the limits of the insurance protection only, any proceeding to establish liability of
2400 the deceased settlor or the trustee for which he is protected by liability insurance;

2401 (c) collection of compensation for services rendered and reimbursement for expenses
2402 advanced by the trustee or by the attorney or accountant for the trustee of the trust estate; or

2403 (d) the right to recover medical assistance provided to the settlor under [~~Title 26;~~
2404 ~~Chapter 19, Medical Benefits Recovery Act~~] Title 26B, Chapter 19, Medical Benefits Recovery
2405 Act.

2406 Section 35. Section **75-7-511** is amended to read:

2407 **75-7-511. Classification of claims.**

2408 (1) If the applicable assets of the deceased settlor's estate or trust estate are insufficient
2409 to pay all claims in full, the trustee shall make payment in the following order:

2410 (a) reasonable funeral expenses;

2411 (b) costs and expenses of administration;

2412 (c) debts and taxes with preference under federal law;

2413 (d) reasonable and necessary medical and hospital expenses of the last illness of the
2414 deceased settlor, including compensation of persons attending the deceased settlor, and medical

2415 assistance if Section [~~26-19-405~~] [26B-3-1013](#) applies;

2416 (e) debts and taxes with preference under other laws of this state; and

2417 (f) all other claims.

2418 (2) No preference shall be given in the payment of any claim over any other claim of
2419 the same class, and a claim due and payable shall not be entitled to a preference over claims not
2420 due.

2421 Section 36. Section **76-3-203.11** is amended to read:

2422 **76-3-203.11. Reporting an overdose -- Mitigating factor.**

2423 It is a mitigating factor in sentencing for an offense under Title 58, Chapter 37, Utah
2424 Controlled Substances Act, that the person or bystander:

2425 (1) reasonably believes that the person or another person is experiencing an overdose
2426 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
2427 controlled substance or other substance;

2428 (2) reports, or assists a person who reports, in good faith the overdose event to a
2429 medical provider, an emergency medical service provider as defined in Section [~~26-8a-102~~]
2430 [26B-4-101](#), a law enforcement officer, a 911 emergency call system, or an emergency dispatch
2431 system, or the person is the subject of a report made under this section;

2432 (3) provides in the report under Subsection (2) a functional description of the location
2433 of the actual overdose event that facilitates responding to the person experiencing the overdose
2434 event;

2435 (4) remains at the location of the person experiencing the overdose event until a
2436 responding law enforcement officer or emergency medical service provider arrives, or remains
2437 at the medical care facility where the person experiencing an overdose event is located until a
2438 responding law enforcement officer arrives;

2439 (5) cooperates with the responding medical provider, emergency medical service
2440 provider, and law enforcement officer, including providing information regarding the person
2441 experiencing the overdose event and any substances the person may have injected, inhaled, or
2442 otherwise introduced into the person's body; and

2443 (6) committed the offense in the same course of events from which the reported
2444 overdose arose.

2445 Section 37. Section **76-5-102.6** is amended to read:

2446 **76-5-102.6. Propelling object or substance at a correctional or peace officer --**

2447 **Penalties.**

2448 (1) (a) As used in this section, "infectious agent" means the same as that term is
2449 defined in Section [~~26-6-2~~] [26B-7-201](#).

2450 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

2451 (2) An actor commits the offense of propelling an object or substance at a correctional
2452 or peace officer if the actor:

2453 (a) is a prisoner or a detained individual; and

2454 (b) throws or otherwise propels an object or substance at a peace officer, a correctional
2455 officer, or an employee or volunteer, including a health care provider.

2456 (3) (a) A violation of Subsection (2) is a class A misdemeanor.

2457 (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree
2458 felony if:

2459 (i) the object or substance causes substantial bodily injury to the peace officer, the
2460 correctional officer, or the employee or volunteer, including a health care provider; or

2461 (ii) (A) the object or substance is:

2462 (I) blood, urine, semen, or fecal material;

2463 (II) an infectious agent or a material that carries an infectious agent;

2464 (III) vomit or a material that carries vomit; or

2465 (IV) the actor's saliva, and the actor knows the actor is infected with HIV, hepatitis B,
2466 or hepatitis C; and

2467 (B) the object or substance comes into contact with any portion of the officer's,
2468 employee's, volunteer's, or health care provider's face, including the eyes or mouth, or comes
2469 into contact with any open wound on the officer's, employee's, volunteer's, or health care
2470 provider's body.

2471 (4) If an offense committed under this section amounts to an offense subject to a
2472 greater penalty under another provision of state law than under this section, this section does
2473 not prohibit prosecution and sentencing for the more serious offense.

2474 Section 38. Section **76-5-102.7** is amended to read:

2475 **76-5-102.7. Assault or threat of violence against health care provider, emergency**
2476 **medical service worker, or health facility employee, owner, or contractor -- Penalty.**

- 2477 (1) (a) As used in this section:
- 2478 (i) "Assault" means an offense under Section [76-5-102](#).
- 2479 (ii) "Emergency medical service worker" means an individual licensed under Section
- 2480 ~~[26-8a-302]~~ [26B-4-116](#).
- 2481 (iii) "Health care provider" means the same as that term is defined in Section
- 2482 [78B-3-403](#).
- 2483 (iv) "Health facility" means:
- 2484 (A) a health care facility as defined in Section ~~[26-21-2]~~ [26B-2-201](#); and
- 2485 (B) the office of a private health care provider, whether for individual or group
- 2486 practice.
- 2487 (v) "Health facility employee" means an employee, owner, or contractor of a health
- 2488 facility.
- 2489 (vi) "Threat of violence" means an offense under Section [76-5-107](#).
- 2490 (b) Terms defined in Section [76-1-101.5](#) apply to this section.
- 2491 (2) (a) An actor commits assault or threat of violence against a health care provider or
- 2492 emergency medical service worker if:
- 2493 (i) the actor is not a prisoner or a detained individual;
- 2494 (ii) the actor commits an assault or threat of violence;
- 2495 (iii) the actor knew that the victim was a health care provider or emergency medical
- 2496 service worker; and
- 2497 (iv) the health care provider or emergency medical service worker was performing
- 2498 emergency or life saving duties within the scope of his or her authority at the time of the assault
- 2499 or threat of violence.
- 2500 (b) An actor commits assault or threat of violence against a health facility employee if:
- 2501 (i) the actor is not a prisoner or a detained individual;
- 2502 (ii) the actor commits an assault or threat of violence;
- 2503 (iii) the actor knew that the victim was a health facility employee; and
- 2504 (iv) the health facility employee was acting within the scope of the health facility
- 2505 employee's duties for the health facility.
- 2506 (3) (a) A violation of Subsection (2) is a class A misdemeanor.
- 2507 (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree

2508 felony if the actor:

2509 (i) causes substantial bodily injury; and

2510 (ii) acts intentionally or knowingly.

2511 Section 39. Section **76-5-102.9** is amended to read:

2512 **76-5-102.9. Propelling a bodily substance or material -- Penalties.**

2513 (1) (a) As used in this section:

2514 (i) "Bodily substance or material" means:

2515 (A) saliva, blood, urine, semen, or fecal material;

2516 (B) an infectious agent or a material that carries an infectious agent; or

2517 (C) vomit or a material that carries vomit.

2518 (ii) "Infectious agent" means the same as that term is defined in Section [\[26-6-2\]](#)

2519 [26B-7-201](#).

2520 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

2521 (2) An actor commits propelling a bodily substance or material if the actor knowingly

2522 or intentionally throws or otherwise propels a bodily substance or material at another

2523 individual.

2524 (3) (a) A violation of Subsection (2) is a class B misdemeanor.

2525 (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a class A

2526 misdemeanor if:

2527 (i) the bodily substance or material is the actor's saliva and the actor knows the actor is

2528 infected with HIV, hepatitis B, or hepatitis C; or

2529 (ii) the bodily substance or material comes into contact with any portion of the other

2530 individual's face, including the eyes or mouth, or comes into contact with any open wound on

2531 the other individual's body.

2532 (4) If an offense committed under this section amounts to an offense subject to a

2533 greater penalty under another provision of state law than under this section, this section does

2534 not prohibit prosecution and sentencing for the more serious offense.

2535 Section 40. Section **76-5-112.5** is amended to read:

2536 **76-5-112.5. Endangerment of a child or vulnerable adult.**

2537 (1) (a) As used in this section:

2538 (i) (A) "Chemical substance" means:

- 2539 (I) a substance intended to be used as a precursor in the manufacture of a controlled
2540 substance;
- 2541 (II) a substance intended to be used in the manufacture of a controlled substance; or
- 2542 (III) any fumes or by-product resulting from the manufacture of a controlled substance.
- 2543 (B) Intent under this Subsection (1)(a)(i) may be demonstrated by:
- 2544 (I) the use, quantity, or manner of storage of the substance; or
- 2545 (II) the proximity of the substance to other precursors or to manufacturing equipment.
- 2546 (ii) "Child" means an individual who is under 18 years old.
- 2547 (iii) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- 2548 (iv) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.
- 2549 (v) "Exposed to" means that the child or vulnerable adult:
- 2550 (A) is able to access an unlawfully possessed:
- 2551 (I) controlled substance; or
- 2552 (II) chemical substance;
- 2553 (B) has the reasonable capacity to access drug paraphernalia; or
- 2554 (C) is able to smell an odor produced during, or as a result of, the manufacture or
2555 production of a controlled substance.
- 2556 (vi) "Prescription" means the same as that term is defined in Section 58-37-2.
- 2557 (vii) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.
- 2558 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 2559 (2) An actor commits endangerment of a child or vulnerable adult if the actor
2560 knowingly or intentionally causes or permits a child or a vulnerable adult to be exposed to,
2561 inhale, ingest, or have contact with a controlled substance, chemical substance, or drug
2562 paraphernalia.
- 2563 (3) (a) A violation of Subsection (2) is a third degree felony.
- 2564 (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a second degree
2565 felony if:
- 2566 (i) the actor engages in the conduct described in Subsection (2); and
- 2567 (ii) as a result of the conduct described in Subsection (2), the child or the vulnerable
2568 adult suffers bodily injury, substantial bodily injury, or serious bodily injury.
- 2569 (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a first

2570 degree felony if:

- 2571 (i) the actor engages in the conduct described in Subsection (2); and
- 2572 (ii) as a result of the conduct described in Subsection (2), the child or the vulnerable
- 2573 adult dies.

2574 (4) (a) Notwithstanding Subsection (3), a child may not be subjected to delinquency
2575 proceedings for a violation of Subsection (2) unless:

- 2576 (i) the child is 15 years old or older; and
- 2577 (ii) the other child who is exposed to or inhales, ingests, or has contact with the
- 2578 controlled substance, chemical substance, or drug paraphernalia, is under 12 years old.

2579 (b) It is an affirmative defense to a violation of this section that the controlled
2580 substance:

2581 (i) was obtained by lawful prescription or in accordance with [~~Title 26, Chapter 61a,~~
2582 ~~Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical
2583 Cannabis; and

2584 (ii) is used or possessed by the individual to whom the controlled substance was
2585 lawfully prescribed or recommended to under [~~Title 26, Chapter 61a, Utah Medical Cannabis~~
2586 ~~Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

2587 (5) The penalties described in this section are separate from, and in addition to, the
2588 penalties and enhancements described in Title 58, Occupations and Professions.

2589 (6) If an offense committed under this section amounts to an offense subject to a
2590 greater penalty under another provision of state law, this section does not prohibit prosecution
2591 and sentencing for the more serious offense.

2592 Section 41. Section **76-5-113** is amended to read:

2593 **76-5-113. Surreptitious administration of certain substances -- Definitions --**
2594 **Penalties -- Defenses.**

2595 (1) (a) As used in this section:

2596 (i) "Administer" means the introduction of a substance into the body by injection,
2597 inhalation, ingestion, or by any other means.

2598 (ii) "Alcoholic beverage" means the same as that term is defined in Section [32B-1-102](#).

2599 (iii) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

2600 (iv) "Deleterious substance" means a substance which, if administered, would likely

2601 cause bodily injury.

2602 (v) "Health care provider" means the same as that term is defined in Section 26-23a-1.

2603 (vi) "Poisonous" means a substance which, if administered, would likely cause serious
2604 bodily injury or death.

2605 (vii) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

2606 (viii) "Serious bodily injury" means the same as that term is defined in Section
2607 19-2-115.

2608 (ix) "Substance" means a controlled substance, poisonous substance, or deleterious
2609 substance.

2610 (b) Terms defined in Section 76-1-101.5 apply to this section.

2611 (2) An actor commits surreptitious administration of a certain substance if the actor,
2612 surreptitiously or by means of fraud, deception, or misrepresentation, causes an individual to
2613 unknowingly consume or receive the administration of:

2614 (a) any poisonous, deleterious, or controlled substance; or

2615 (b) any alcoholic beverage.

2616 (3) A violation of Subsection (2) is:

2617 (a) a second degree felony if the substance is a poisonous substance, regardless of
2618 whether the substance is a controlled substance or a prescription drug;

2619 (b) a third degree felony if the substance is not within the scope of Subsection (3)(a),
2620 and is a controlled substance or a prescription drug; or

2621 (c) a class A misdemeanor if the substance is a deleterious substance or an alcoholic
2622 beverage.

2623 (4) (a) It is an affirmative defense to a prosecution under Subsection (2) that the actor:

2624 (i) provided the appropriate administration of a prescription drug; and

2625 (ii) acted on the reasonable belief that the actor's conduct was in the best interest of the
2626 well-being of the individual to whom the prescription drug was administered.

2627 (b) (i) The defendant shall file and serve on the prosecuting attorney a notice in writing
2628 of the defendant's intention to claim a defense under Subsection (4)(a) not fewer than 20 days
2629 before the trial.

2630 (ii) The notice shall specifically identify the factual basis for the defense and the names
2631 and addresses of the witnesses the defendant proposes to examine to establish the defense.

2632 (c) (i) The prosecuting attorney shall file and serve the defendant with a notice
2633 containing the names and addresses of the witnesses the prosecutor proposes to examine in
2634 order to contradict or rebut the defendant's claim of an affirmative defense under Subsection
2635 (4)(a).

2636 (ii) This notice shall be filed or served not more than 10 days after receipt of the
2637 defendant's notice under Subsection (4)(b), or at another time as the court may direct.

2638 (d) (i) Failure of a party to comply with the requirements of Subsection (4)(b) or (4)(c)
2639 entitles the opposing party to a continuance to allow for preparation.

2640 (ii) If the court finds that a party's failure to comply is the result of bad faith, it may
2641 impose appropriate sanctions.

2642 (5) (a) This section does not diminish the scope of authorized health care by a health
2643 care provider.

2644 (b) Conduct in violation of Subsection (2) may also constitute a separate offense.
2645 Section 42. Section **76-5-412** is amended to read:

2646 **76-5-412. Custodial sexual relations -- Penalties -- Defenses and limitations.**

2647 (1) (a) As used in this section:

2648 (i) "Actor" means:

2649 (A) a law enforcement officer, as defined in Section [53-13-103](#);

2650 (B) a correctional officer, as defined in Section [53-13-104](#);

2651 (C) a special function officer, as defined in Section [53-13-105](#); or

2652 (D) an employee of, or private provider or contractor for, the Department of
2653 Corrections or a county jail.

2654 (ii) "Indecent liberties" means the same as that term is defined in Section [76-5-401.1](#).

2655 (iii) "Person in custody" means an individual, either an adult 18 years old or older, or a
2656 minor younger than 18 years old, who is:

2657 (A) a prisoner, as defined in Section [76-5-101](#), and includes a prisoner who is in the
2658 custody of the Department of Corrections created under Section [64-13-2](#), but who is being
2659 housed at the Utah State Hospital established under Section [~~62A-15-601~~] [26B-5-302](#) or other
2660 medical facility;

2661 (B) under correctional supervision, such as at a work release facility or as a parolee or
2662 probationer; or

2663 (C) under lawful or unlawful arrest, either with or without a warrant.
2664 (iv) "Private provider or contractor" means a person that contracts with the Department
2665 of Corrections or with a county jail to provide services or functions that are part of the
2666 operation of the Department of Corrections or a county jail under state or local law.
2667 (b) Terms defined in Section 76-1-101.5 apply to this section.
2668 (2) (a) An actor commits custodial sexual relations if the actor commits any of the acts
2669 under Subsection (2)(b):
2670 (i) under circumstances not amounting to commission of, or an attempt to commit, an
2671 offense under Subsection (4); and
2672 (ii) (A) the actor knows that the individual is a person in custody; or
2673 (B) a reasonable person in the actor's position should have known under the
2674 circumstances that the individual was a person in custody.
2675 (b) Acts referred to in Subsection (2)(a) are:
2676 (i) having sexual intercourse with a person in custody;
2677 (ii) engaging in a sexual act with a person in custody involving the genitals of one
2678 individual and the mouth or anus of another individual; or
2679 (iii) (A) causing the penetration, however slight, of the genital or anal opening of a
2680 person in custody by any foreign object, substance, instrument, or device, including a part of
2681 the human body; and
2682 (B) intending to cause substantial emotional or bodily pain to any individual.
2683 (c) Any touching, even if accomplished through clothing, is sufficient to constitute the
2684 relevant element of a violation of Subsection (2)(a).
2685 (3) (a) A violation of Subsection (2) is a third degree felony.
2686 (b) Notwithstanding Subsection (3)(a), if the person in custody is younger than 18
2687 years old, a violation of Subsection (2) is a second degree felony.
2688 (c) If the act committed under Subsection (3) amounts to an offense subject to a greater
2689 penalty under another provision of state law than is provided under this Subsection (3), this
2690 Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.
2691 (4) The offenses referred to in Subsection (2)(a)(i) and Subsection 76-5-412.2(2)(a)(i)
2692 are:
2693 (a) Section 76-5-401, unlawful sexual activity with a minor;

- 2694 (b) Section 76-5-402, rape;
- 2695 (c) Section 76-5-402.1, rape of a child;
- 2696 (d) Section 76-5-402.2, object rape;
- 2697 (e) Section 76-5-402.3, object rape of a child;
- 2698 (f) Section 76-5-403, forcible sodomy;
- 2699 (g) Section 76-5-403.1, sodomy on a child;
- 2700 (h) Section 76-5-404, forcible sexual abuse;
- 2701 (i) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated
- 2702 sexual abuse of a child; or
- 2703 (j) Section 76-5-405, aggravated sexual assault.
- 2704 (5) (a) It is not a defense to the commission of, or the attempt to commit, the offense of
- 2705 custodial sexual relations under Subsection (2) if the person in custody is younger than 18 years
- 2706 old, that the actor:
 - 2707 (i) mistakenly believed the person in custody to be 18 years old or older at the time of
 - 2708 the alleged offense; or
 - 2709 (ii) was unaware of the true age of the person in custody.
- 2710 (b) Consent of the person in custody is not a defense to any violation or attempted
- 2711 violation of Subsection (2).
- 2712 (6) It is a defense that the commission by the actor of an act under Subsection (2) is the
- 2713 result of compulsion, as the defense is described in Subsection 76-2-302(1).
- 2714 Section 43. Section 76-5b-201 is amended to read:
- 2715 **76-5b-201. Sexual exploitation of a minor -- Offenses.**
- 2716 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 2717 (2) An actor commits sexual exploitation of a minor when the actor knowingly
- 2718 possesses or intentionally views child pornography.
- 2719 (3) (a) A violation of Subsection (2) is a second degree felony.
- 2720 (b) It is a separate offense under this section:
 - 2721 (i) for each minor depicted in the child pornography; and
 - 2722 (ii) for each time the same minor is depicted in different child pornography.
- 2723 (4) (a) It is an affirmative defense to a charge of violating this section that no minor
- 2724 was actually depicted in the visual depiction or used in producing or advertising the visual

2725 depiction.

2726 (b) For a charge of violating this section, it is an affirmative defense that:

2727 (i) the defendant:

2728 (A) did not solicit the child pornography from the minor depicted in the child

2729 pornography;

2730 (B) is not more than two years older than the minor depicted in the child pornography;

2731 and

2732 (C) upon request of a law enforcement agent or the minor depicted in the child

2733 pornography, removes from an electronic device or destroys the child pornography and all

2734 copies of the child pornography in the defendant's possession; and

2735 (ii) the child pornography does not depict an offense under Chapter 5, Part 4, Sexual
2736 Offenses.

2737 (5) In proving a violation of this section in relation to an identifiable minor, proof of
2738 the actual identity of the identifiable minor is not required.

2739 (6) This section may not be construed to impose criminal or civil liability on:

2740 (a) an entity or an employee, director, officer, or agent of an entity when acting within
2741 the scope of employment, for the good faith performance of:

2742 (i) reporting or data preservation duties required under federal or state law; or

2743 (ii) implementing a policy of attempting to prevent the presence of child pornography
2744 on tangible or intangible property, or of detecting and reporting the presence of child

2745 pornography on the property;

2746 (b) a law enforcement officer acting within the scope of a criminal investigation;

2747 (c) an employee of a court who may be required to view child pornography during the
2748 course of and within the scope of the employee's employment;

2749 (d) a juror who may be required to view child pornography during the course of the
2750 individual's service as a juror;

2751 (e) an attorney or employee of an attorney who is required to view child pornography
2752 during the course of a judicial process and while acting within the scope of employment;

2753 (f) an employee of the Department of [~~Human Services~~] Health and Human Services
2754 who is required to view child pornography within the scope of the employee's employment; or

2755 (g) an attorney who is required to view child pornography within the scope of the

2756 attorney's responsibility to represent the Department of [~~Human Services~~] Health and Human
2757 Services, including the divisions and offices within the Department of [~~Human Services~~]
2758 Health and Human Services.

2759 Section 44. Section **76-6-106** is amended to read:

2760 **76-6-106. Criminal mischief.**

2761 (1) As used in this section, "critical infrastructure" includes:

2762 (a) information and communication systems;

2763 (b) financial and banking systems;

2764 (c) any railroads, airlines, airports, airways, highways, bridges, waterways, fixed
2765 guideways, or other transportation systems intended for the transportation of persons or
2766 property;

2767 (d) any public utility service, including the power, energy, and water supply systems;

2768 (e) sewage and water treatment systems;

2769 (f) health care facilities as listed in Section [~~26-21-2~~] 26B-2-201, and emergency fire,
2770 medical, and law enforcement response systems;

2771 (g) public health facilities and systems;

2772 (h) food distribution systems; and

2773 (i) other government operations and services.

2774 (2) A person commits criminal mischief if the person:

2775 (a) under circumstances not amounting to arson, damages or destroys property with the
2776 intention of defrauding an insurer;

2777 (b) intentionally and unlawfully tampers with the property of another and as a result:

2778 (i) recklessly endangers:

2779 (A) human life; or

2780 (B) human health or safety; or

2781 (ii) recklessly causes or threatens a substantial interruption or impairment of any
2782 critical infrastructure;

2783 (c) intentionally damages, defaces, or destroys the property of another; or

2784 (d) recklessly or willfully shoots or propels a missile or other object at or against a
2785 motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving
2786 or standing.

2787 (3) (a) (i) A violation of Subsection (2)(a) is a third degree felony.
2788 (ii) A violation of Subsection (2)(b)(i)(A) is a class A misdemeanor.
2789 (iii) A violation of Subsection (2)(b)(i)(B) is a class B misdemeanor.
2790 (iv) A violation of Subsection (2)(b)(ii) is a second degree felony.
2791 (b) Any other violation of this section is a:
2792 (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary
2793 loss equal to or in excess of \$5,000 in value;
2794 (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary
2795 loss equal to or in excess of \$1,500 but is less than \$5,000 in value;
2796 (iii) class A misdemeanor if the actor's conduct causes or is intended to cause
2797 pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and
2798 (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary
2799 loss less than \$500 in value.
2800 (4) In determining the value of damages under this section, or for computer crimes
2801 under Section 76-6-703, the value of any item, computer, computer network, computer
2802 property, computer services, software, or data includes the measurable value of the loss of use
2803 of the items and the measurable cost to replace or restore the items.
2804 (5) In addition to any other penalty authorized by law, a court shall order any person
2805 convicted of any violation of this section to reimburse any federal, state, or local unit of
2806 government, or any private business, organization, individual, or entity for all expenses
2807 incurred in responding to a violation of Subsection (2)(b)(ii), unless the court states on the
2808 record the reasons why the reimbursement would be inappropriate.
2809 Section 45. Section 76-6-702 is amended to read:
2810 **76-6-702. Definitions.**
2811 As used in this part:
2812 (1) "Access" means to directly or indirectly use, attempt to use, instruct, communicate
2813 with, cause input to, cause output from, or otherwise make use of any resources of a computer,
2814 computer system, computer network, or any means of communication with any of them.
2815 (2) "Authorization" means having the express or implied consent or permission of the
2816 owner, or of the person authorized by the owner to give consent or permission to access a
2817 computer, computer system, or computer network in a manner not exceeding the consent or

2818 permission.

2819 (3) "Computer" means any electronic device or communication facility that stores,
2820 processes, transmits, or facilitates the transmission of data.

2821 (4) "Computer network" means:

2822 (a) the interconnection of communication or telecommunication lines between:

2823 (i) computers; or

2824 (ii) computers and remote terminals; or

2825 (b) the interconnection by wireless technology between:

2826 (i) computers; or

2827 (ii) computers and remote terminals.

2828 (5) "Computer property" includes electronic impulses, electronically produced data,
2829 information, financial instruments, software, or programs, in either machine or human readable
2830 form, any other tangible or intangible item relating to a computer, computer system, computer
2831 network, and copies of any of them.

2832 (6) "Computer system" means a set of related, connected or unconnected, devices,
2833 software, or other related computer equipment.

2834 (7) "Computer technology" includes:

2835 (a) a computer;

2836 (b) a computer network;

2837 (c) computer hardware;

2838 (d) a computer system;

2839 (e) a computer program;

2840 (f) computer services;

2841 (g) computer software; or

2842 (h) computer data.

2843 (8) "Confidential" means data, text, or computer property that is protected by a security
2844 system that clearly evidences that the owner or custodian intends that it not be available to
2845 others without the owner's or custodian's permission.

2846 (9) "Critical infrastructure" includes:

2847 (a) a financial or banking system;

2848 (b) any railroad, airline, airport, airway, highway, bridge, waterway, fixed guideway, or

- 2849 other transportation system intended for the transportation of persons or property;
- 2850 (c) any public utility service, including a power, energy, gas, or water supply system;
- 2851 (d) a sewage or water treatment system;
- 2852 (e) a health care facility, as that term is defined in Section [~~26-21-2~~] [26B-2-201](#);
- 2853 (f) an emergency fire, medical, or law enforcement response system;
- 2854 (g) a public health facility or system;
- 2855 (h) a food distribution system;
- 2856 (i) a government computer system or network;
- 2857 (j) a school; or
- 2858 (k) other government facilities, operations, or services.
- 2859 (10) "Denial of service attack" means an attack or intrusion that is intended to disrupt
- 2860 legitimate access to, or use of, a network resource, a machine, or computer technology.
- 2861 (11) "Financial instrument" includes any check, draft, money order, certificate of
- 2862 deposit, letter of credit, bill of exchange, electronic fund transfer, automated clearing house
- 2863 transaction, credit card, or marketable security.
- 2864 (12) (a) "Identifying information" means a person's:
- 2865 (i) social security number;
- 2866 (ii) driver license number;
- 2867 (iii) nondriver governmental identification number;
- 2868 (iv) bank account number;
- 2869 (v) student identification number;
- 2870 (vi) credit or debit card number;
- 2871 (vii) personal identification number;
- 2872 (viii) unique biometric data;
- 2873 (ix) employee or payroll number;
- 2874 (x) automated or electronic signature; or
- 2875 (xi) computer password.
- 2876 (b) "Identifying information" does not include information that is lawfully available
- 2877 from publicly available information, or from federal, state, or local government records
- 2878 lawfully made available to the general public.
- 2879 (13) "Information" does not include information obtained:

2880 (a) through use of:
2881 (i) an electronic product identification or tracking system; or
2882 (ii) other technology used by a retailer to identify, track, or price goods; and
2883 (b) by a retailer through the use of equipment designed to read the electronic product
2884 identification or tracking system data located within the retailer's location.

2885 (14) "Interactive computer service" means an information service, system, or access
2886 software provider that provides or enables computer access by multiple users to a computer
2887 server, including a service or system that provides access to the Internet or a system operated,
2888 or services offered, by a library or an educational institution.

2889 (15) "License or entitlement" includes:

- 2890 (a) licenses, certificates, and permits granted by governments;
- 2891 (b) degrees, diplomas, and grades awarded by educational institutions;
- 2892 (c) military ranks, grades, decorations, and awards;
- 2893 (d) membership and standing in organizations and religious institutions;
- 2894 (e) certification as a peace officer;
- 2895 (f) credit reports; and
- 2896 (g) another record or datum upon which a person may be reasonably expected to rely in
2897 making decisions that will have a direct benefit or detriment to another.

2898 (16) "Security system" means a computer, computer system, network, or computer
2899 property that has some form of access control technology implemented, such as encryption,
2900 password protection, other forced authentication, or access control designed to keep out
2901 unauthorized persons.

2902 (17) "Services" include computer time, data manipulation, and storage functions.

2903 (18) "Service provider" means a telecommunications carrier, cable operator, computer
2904 hardware or software provider, or a provider of information service or interactive computer
2905 service.

2906 (19) "Software" or "program" means a series of instructions or statements in a form
2907 acceptable to a computer, relating to the operations of the computer, or permitting the
2908 functioning of a computer system in a manner designed to provide results including system
2909 control programs, application programs, or copies of any of them.

2910 Section 46. Section **76-7-301** is amended to read:

2911 **76-7-301. Definitions.**

2912 As used in this part:

2913 (1) (a) "Abortion" means:

2914 (i) the intentional termination or attempted termination of human pregnancy after
2915 implantation of a fertilized ovum through a medical procedure carried out by a physician or
2916 through a substance used under the direction of a physician;2917 (ii) the intentional killing or attempted killing of a live unborn child through a medical
2918 procedure carried out by a physician or through a substance used under the direction of a
2919 physician; or2920 (iii) the intentional causing or attempted causing of a miscarriage through a medical
2921 procedure carried out by a physician or through a substance used under the direction of a
2922 physician.

2923 (b) "Abortion" does not include:

2924 (i) removal of a dead unborn child;

2925 (ii) removal of an ectopic pregnancy; or

2926 (iii) the killing or attempted killing of an unborn child without the consent of the
2927 pregnant woman, unless:2928 (A) the killing or attempted killing is done through a medical procedure carried out by
2929 a physician or through a substance used under the direction of a physician; and

2930 (B) the physician is unable to obtain the consent due to a medical emergency.

2931 (2) "Abortion clinic" means the same as that term is defined in Section ~~[26-21-2]~~
2932 [26B-2-201](#).2933 (3) "Abuse" means the same as that term is defined in Section [80-1-102](#).2934 (4) "Department" means the Department of ~~[Health]~~ [Health and Human Services](#).2935 (5) "Down syndrome" means a genetic condition associated with an extra chromosome
2936 21, in whole or in part, or an effective trisomy for chromosome 21.2937 (6) "Gestational age" means the age of an unborn child as calculated from the first day
2938 of the last menstrual period of the pregnant woman.

2939 (7) "Hospital" means:

2940 (a) a general hospital licensed by the department according to ~~[Title 26, Chapter 21,~~
2941 ~~Health Care Facility Licensing and Inspection Act]~~ [Title 26B, Chapter 2, Part 2, Health Care](#)

2942 Facility Licensing and Inspection; and

2943 (b) a clinic or other medical facility to the extent that such clinic or other medical
2944 facility is certified by the department as providing equipment and personnel sufficient in
2945 quantity and quality to provide the same degree of safety to the pregnant woman and the
2946 unborn child as would be provided for the particular medical procedures undertaken by a
2947 general hospital licensed by the department.

2948 (8) "Information module" means the pregnancy termination information module
2949 prepared by the department.

2950 (9) "Medical emergency" means that condition which, on the basis of the physician's
2951 good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the
2952 immediate abortion of her pregnancy to avert her death, or for which a delay will create serious
2953 risk of substantial and irreversible impairment of major bodily function.

2954 (10) "Minor" means an individual who is:

2955 (a) under 18 years old;

2956 (b) unmarried; and

2957 (c) not emancipated.

2958 (11) (a) "Partial birth abortion" means an abortion in which the person performing the
2959 abortion:

2960 (i) deliberately and intentionally vaginally delivers a living fetus until, in the case of a
2961 head first presentation, the entire fetal head is outside the body of the mother, or, in the case of
2962 breech presentation, any part of the fetal trunk past the navel is outside the body of the mother,
2963 for the purpose of performing an overt act that the person knows will kill the partially delivered
2964 living fetus; and

2965 (ii) performs the overt act, other than completion of delivery, that kills the partially
2966 living fetus.

2967 (b) "Partial birth abortion" does not include the dilation and evacuation procedure
2968 involving dismemberment prior to removal, the suction curettage procedure, or the suction
2969 aspiration procedure for abortion.

2970 (12) "Physician" means:

2971 (a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter
2972 67, Utah Medical Practice Act;

2973 (b) an osteopathic physician licensed to practice osteopathic medicine under Title 58,
2974 Chapter 68, Utah Osteopathic Medical Practice Act; or

2975 (c) a physician employed by the federal government who has qualifications similar to a
2976 person described in Subsection (12)(a) or (b).

2977 (13) (a) "Severe brain abnormality" means a malformation or defect that causes an
2978 individual to live in a mentally vegetative state.

2979 (b) "Severe brain abnormality" does not include:

2980 (i) Down syndrome;

2981 (ii) spina bifida;

2982 (iii) cerebral palsy; or

2983 (iv) any other malformation, defect, or condition that does not cause an individual to
2984 live in a mentally vegetative state.

2985 Section 47. Section **76-7-305** is amended to read:

2986 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**
2987 **-- Exceptions.**

2988 (1) A person may not perform an abortion, unless, before performing the abortion, the
2989 physician who will perform the abortion obtains from the woman on whom the abortion is to
2990 be performed a voluntary and informed written consent that is consistent with:

2991 (a) Section 8.08 of the American Medical Association's Code of Medical Ethics,
2992 Current Opinions; and

2993 (b) the provisions of this section.

2994 (2) Except as provided in Subsection (8), consent to an abortion is voluntary and
2995 informed only if, at least 72 hours before the abortion:

2996 (a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse
2997 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or
2998 physician's assistant presents the information module to the pregnant woman;

2999 (b) the pregnant woman views the entire information module and presents evidence to
3000 the individual described in Subsection (2)(a) that the pregnant woman viewed the entire
3001 information module;

3002 (c) after receiving the evidence described in Subsection (2)(b), the individual described
3003 in Subsection (2)(a):

3004 (i) documents that the pregnant woman viewed the entire information module;
3005 (ii) gives the pregnant woman, upon her request, a copy of the documentation
3006 described in Subsection (2)(c)(i); and
3007 (iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician
3008 who is to perform the abortion, upon request of that physician or the pregnant woman;
3009 (d) after the pregnant woman views the entire information module, the physician who
3010 is to perform the abortion, the referring physician, a physician, a registered nurse, nurse
3011 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or
3012 physician's assistant, in a face-to-face consultation in any location in the state, orally informs
3013 the woman of:
3014 (i) the nature of the proposed abortion procedure;
3015 (ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the
3016 fetus;
3017 (iii) the risks and alternatives to the abortion procedure or treatment;
3018 (iv) the options and consequences of aborting a medication-induced abortion, if the
3019 proposed abortion procedure is a medication-induced abortion;
3020 (v) the probable gestational age and a description of the development of the unborn
3021 child at the time the abortion would be performed;
3022 (vi) the medical risks associated with carrying her child to term;
3023 (vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant
3024 woman, upon her request; and
3025 (viii) when the result of a prenatal screening or diagnostic test indicates that the unborn
3026 child has or may have Down syndrome, the Department of ~~[Health]~~ Health and Human
3027 Services website containing the information described in Section ~~[26-10-14]~~ 26B-7-106,
3028 including the information on the informational support sheet; and
3029 (e) after the pregnant woman views the entire information module, a staff member of
3030 the abortion clinic or hospital provides to the pregnant woman:
3031 (i) on a document that the pregnant woman may take home:
3032 (A) the address for the department's website described in Section 76-7-305.5; and
3033 (B) a statement that the woman may request, from a staff member of the abortion clinic
3034 or hospital where the woman viewed the information module, a printed copy of the material on

3035 the department's website;

3036 (ii) a printed copy of the material on the department's website described in Section
3037 [76-7-305.5](#), if requested by the pregnant woman; and

3038 (iii) a copy of the form described in Subsection [~~26-21-33(3)(a)(i)~~] [26B-2-232\(3\)\(a\)\(i\)](#)
3039 regarding the disposition of the aborted fetus.

3040 (3) Before performing an abortion, the physician who is to perform the abortion shall:

3041 (a) in a face-to-face consultation, provide the information described in Subsection
3042 (2)(d), unless the attending physician or referring physician is the individual who provided the
3043 information required under Subsection (2)(d); and

3044 (b) (i) obtain from the pregnant woman a written certification that the information
3045 required to be provided under Subsection (2) and this Subsection (3) was provided in
3046 accordance with the requirements of Subsection (2) and this Subsection (3);

3047 (ii) obtain a copy of the statement described in Subsection (2)(c)(i); and

3048 (iii) ensure that:

3049 (A) the woman has received the information described in Subsections [~~26-21-33(3)~~ and
3050 ~~(4)~~] [26B-2-232\(3\)](#) and (4); and

3051 (B) if the woman has a preference for the disposition of the aborted fetus, the woman
3052 has informed the health care facility of the woman's decision regarding the disposition of the
3053 aborted fetus.

3054 (4) When a serious medical emergency compels the performance of an abortion, the
3055 physician shall inform the woman prior to the abortion, if possible, of the medical indications
3056 supporting the physician's judgment that an abortion is necessary.

3057 (5) If an ultrasound is performed on a woman before an abortion is performed, the
3058 individual who performs the ultrasound, or another qualified individual, shall:

3059 (a) inform the woman that the ultrasound images will be simultaneously displayed in a
3060 manner to permit her to:

3061 (i) view the images, if she chooses to view the images; or

3062 (ii) not view the images, if she chooses not to view the images;

3063 (b) simultaneously display the ultrasound images in order to permit the woman to:

3064 (i) view the images, if she chooses to view the images; or

3065 (ii) not view the images, if she chooses not to view the images;

3066 (c) inform the woman that, if she desires, the person performing the ultrasound, or
3067 another qualified person shall provide a detailed description of the ultrasound images,
3068 including:

- 3069 (i) the dimensions of the unborn child;
- 3070 (ii) the presence of cardiac activity in the unborn child, if present and viewable; and
- 3071 (iii) the presence of external body parts or internal organs, if present and viewable; and
- 3072 (d) provide the detailed description described in Subsection (5)(c), if the woman
3073 requests it.

3074 (6) The information described in Subsections (2), (3), and (5) is not required to be
3075 provided to a pregnant woman under this section if the abortion is performed for a reason
3076 described in:

3077 (a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician
3078 concur, in writing, that the abortion is necessary to avert:

- 3079 (i) the death of the woman on whom the abortion is performed; or
- 3080 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
3081 of the woman on whom the abortion is performed; or

3082 (b) Subsection 76-7-302(3)(b)(ii).

3083 (7) In addition to the criminal penalties described in this part, a physician who violates
3084 the provisions of this section:

3085 (a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102;

3086 and

3087 (b) shall be subject to:

3088 (i) suspension or revocation of the physician's license for the practice of medicine and
3089 surgery in accordance with Section 58-67-401 or 58-68-401; and

3090 (ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

3091 (8) A physician is not guilty of violating this section for failure to furnish any of the
3092 information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

3093 (a) the physician can demonstrate by a preponderance of the evidence that the
3094 physician reasonably believed that furnishing the information would have resulted in a severely
3095 adverse effect on the physical or mental health of the pregnant woman;

3096 (b) in the physician's professional judgment, the abortion was necessary to avert:

- 3097 (i) the death of the woman on whom the abortion is performed; or
3098 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
3099 of the woman on whom the abortion is performed;
- 3100 (c) the pregnancy was the result of rape or rape of a child, as described in Sections
3101 76-5-402 and 76-5-402.1;
- 3102 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and
3103 Section 76-7-102; or
- 3104 (e) at the time of the abortion, the pregnant woman was 14 years old or younger.
- 3105 (9) A physician who complies with the provisions of this section and Section
3106 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain
3107 informed consent under Section 78B-3-406.
- 3108 (10) (a) The department shall provide an ultrasound, in accordance with the provisions
3109 of Subsection (5)(b), at no expense to the pregnant woman.
- 3110 (b) A local health department shall refer a pregnant woman who requests an ultrasound
3111 described in Subsection (10)(a) to the department.
- 3112 (11) A physician is not guilty of violating this section if:
- 3113 (a) the information described in Subsection (2) is provided less than 72 hours before
3114 the physician performs the abortion; and
- 3115 (b) in the physician's professional judgment, the abortion was necessary in a case
3116 where:
- 3117 (i) a ruptured membrane, documented by the attending or referring physician, will
3118 cause a serious infection; or
- 3119 (ii) a serious infection, documented by the attending or referring physician, will cause a
3120 ruptured membrane.
- 3121 Section 48. Section 76-7-305.5 is amended to read:
- 3122 **76-7-305.5. Requirements for information module and website.**
- 3123 (1) In order to ensure that a woman's consent to an abortion is truly an informed
3124 consent, the department shall, in accordance with the requirements of this section, develop an
3125 information module and maintain a public website.
- 3126 (2) The information module and public website described in Subsection (1) shall:
- 3127 (a) be scientifically accurate, comprehensible, and presented in a truthful,

3128 nonmisleading manner;

3129 (b) present adoption as a preferred and positive choice and alternative to abortion;

3130 (c) be produced in a manner that conveys the state's preference for childbirth over

3131 abortion;

3132 (d) state that the state prefers childbirth over abortion;

3133 (e) state that it is unlawful for any person to coerce a woman to undergo an abortion;

3134 (f) state that any physician who performs an abortion without obtaining the woman's

3135 informed consent or without providing her a private medical consultation in accordance with

3136 the requirements of this section, may be liable to her for damages in a civil action at law;

3137 (g) provide a geographically indexed list of resources and public and private services

3138 available to assist, financially or otherwise, a pregnant woman during pregnancy, at childbirth,

3139 and while the child is dependent, including:

3140 (i) medical assistance benefits for prenatal care, childbirth, and neonatal care;

3141 (ii) services and supports available under Section [35A-3-308](#);

3142 (iii) other financial aid that may be available during an adoption;

3143 (iv) services available from public adoption agencies, private adoption agencies, and

3144 private attorneys whose practice includes adoption; and

3145 (v) the names, addresses, and telephone numbers of each person listed under this

3146 Subsection (2)(g);

3147 (h) describe the adoption-related expenses that may be paid under Section [76-7-203](#);

3148 (i) describe the persons who may pay the adoption related expenses described in

3149 Subsection (2)(h);

3150 (j) except as provided in Subsection (4), describe the legal responsibility of the father

3151 of a child to assist in child support, even if the father has agreed to pay for an abortion;

3152 (k) except as provided in Subsection (4), describe the services available through the

3153 Office of Recovery Services, within the Department of [~~Human Services~~] Health and Human

3154 Services, to establish and collect the support described in Subsection (2)(j);

3155 (l) state that private adoption is legal;

3156 (m) describe and depict, with pictures or video segments, the probable anatomical and

3157 physiological characteristics of an unborn child at two-week gestational increments from

3158 fertilization to full term, including:

- 3159 (i) brain and heart function;
- 3160 (ii) the presence and development of external members and internal organs; and
- 3161 (iii) the dimensions of the fetus;
- 3162 (n) show an ultrasound of the heartbeat of an unborn child at:
- 3163 (i) four weeks from conception;
- 3164 (ii) six to eight weeks from conception; and
- 3165 (iii) each month after 10 weeks gestational age, up to 14 weeks gestational age;
- 3166 (o) describe abortion procedures used in current medical practice at the various stages
- 3167 of growth of the unborn child, including:
- 3168 (i) the medical risks associated with each procedure;
- 3169 (ii) the risk related to subsequent childbearing that are associated with each procedure;
- 3170 and
- 3171 (iii) the consequences of each procedure to the unborn child at various stages of fetal
- 3172 development;
- 3173 (p) describe the possible detrimental psychological effects of abortion;
- 3174 (q) describe the medical risks associated with carrying a child to term;
- 3175 (r) include relevant information on the possibility of an unborn child's survival at the
- 3176 two-week gestational increments described in Subsection (2)(m);
- 3177 (s) except as provided in Subsection (5), include:
- 3178 (i) information regarding substantial medical evidence from studies concluding that an
- 3179 unborn child who is at least 20 weeks gestational age may be capable of experiencing pain
- 3180 during an abortion procedure; and
- 3181 (ii) the measures that will be taken in accordance with Section [76-7-308.5](#);
- 3182 (t) explain the options and consequences of aborting a medication-induced abortion;
- 3183 (u) include the following statement regarding a medication-induced abortion,
- 3184 "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You
- 3185 may still have a viable pregnancy after taking mifepristone. If you have taken mifepristone but
- 3186 have not yet taken the second drug and have questions regarding the health of your fetus or are
- 3187 questioning your decision to terminate your pregnancy, you should consult a physician
- 3188 immediately.";
- 3189 (v) inform a pregnant woman that she has the right to view an ultrasound of the unborn

3190 child, at no expense to her, upon her request;

3191 (w) inform a pregnant woman that she has the right to:

3192 (i) determine the final disposition of the remains of the aborted fetus;

3193 (ii) unless the woman waives this right in writing, wait up to 72 hours after the
3194 abortion procedure is performed to make a determination regarding the disposition of the
3195 aborted fetus before the health care facility may dispose of the fetal remains;

3196 (iii) receive information about options for disposition of the aborted fetus, including
3197 the method of disposition that is usual and customary for a health care facility; and

3198 (iv) for a medication-induced abortion, return the aborted fetus to the health care
3199 facility for disposition; and

3200 (x) provide a digital copy of the form described in Subsection [26-21-33(3)(a)(i)]
3201 [26B-2-232\(3\)\(a\)\(i\)](#); and

3202 (y) be in a typeface large enough to be clearly legible.

3203 (3) The information module and website described in Subsection (1) may include a
3204 toll-free 24-hour telephone number that may be called in order to obtain, orally, a list and
3205 description of services, agencies, and adoption attorneys in the locality of the caller.

3206 (4) The department may develop a version of the information module and website that
3207 omits the information in Subsections (2)(j) and (k) for a viewer who is pregnant as the result of
3208 rape.

3209 (5) The department may develop a version of the information module and website that
3210 omits the information described in Subsection (2)(s) for a viewer who will have an abortion
3211 performed:

3212 (a) on an unborn child who is less than 20 weeks gestational age at the time of the
3213 abortion; or

3214 (b) on an unborn child who is at least 20 weeks gestational age at the time of the
3215 abortion, if:

3216 (i) the abortion is being performed for a reason described in Subsection
3217 [76-7-302\(3\)\(b\)\(i\)](#) or (ii); and

3218 (ii) due to a serious medical emergency, time does not permit compliance with the
3219 requirement to provide the information described in Subsection (2)(s).

3220 (6) The department and each local health department shall make the information

3221 module and the website described in Subsection (1) available at no cost to any person.

3222 (7) The department shall make the website described in Subsection (1) available for
3223 viewing on the department's website by clicking on a conspicuous link on the home page of the
3224 website.

3225 (8) The department shall ensure that the information module is:

3226 (a) available to be viewed at all facilities where an abortion may be performed;

3227 (b) interactive for the individual viewing the module, including the provision of
3228 opportunities to answer questions and manually engage with the module before the module
3229 transitions from one substantive section to the next;

3230 (c) produced in English and may include subtitles in Spanish or another language; and

3231 (d) capable of being viewed on a tablet or other portable device.

3232 (9) After the department releases the initial version of the information module, for the
3233 use described in Section [76-7-305](#), the department shall:

3234 (a) update the information module, as required by law; and

3235 (b) present an updated version of the information module to the Health and Human
3236 Services Interim Committee for the committee's review and recommendation before releasing
3237 the updated version for the use described in Section [76-7-305](#).

3238 Section 49. Section **76-7-306** is amended to read:

3239 **76-7-306. Refusal to participate, admit, or treat for abortion based on religious or**
3240 **moral grounds -- Cause of action.**

3241 (1) As used in this section:

3242 (a) "Health care facility" is as defined in Section [~~26-21-2~~] [26B-2-201](#).

3243 (b) "Health care provider" means an individual who is an employee of, has practice
3244 privileges at, or is otherwise associated with a health care facility.

3245 (2) A health care provider may, on religious or moral grounds, refuse to perform or
3246 participate in any way, in:

3247 (a) an abortion; or

3248 (b) a procedure that is intended to, or likely to, result in the termination of a pregnancy.

3249 (3) Except as otherwise required by law, a health care facility may refuse, on religious
3250 or moral grounds, to:

3251 (a) admit a patient for an abortion procedure or another procedure that is intended to, or

3252 likely to, result in the termination of a pregnancy; or

3253 (b) perform for a patient an abortion procedure or another procedure that is intended to,
3254 or likely to, result in the termination of a pregnancy.

3255 (4) A health care provider's refusal under Subsection (2) and a health care facility's
3256 refusal under Subsection (3) may not be the basis for civil liability or other recriminatory
3257 action.

3258 (5) A health care facility, employer, or other person may not take an adverse action
3259 against a health care provider for exercising the health care provider's right of refusal described
3260 in Subsection (2), or for bringing or threatening to bring an action described in Subsection (6),
3261 including:

3262 (a) dismissal;

3263 (b) demotion;

3264 (c) suspension;

3265 (d) discipline;

3266 (e) discrimination;

3267 (f) harassment;

3268 (g) retaliation;

3269 (h) adverse change in status;

3270 (i) termination of, adverse alteration of, or refusal to renew an association or
3271 agreement; or

3272 (j) refusal to provide a benefit, privilege, raise, promotion, tenure, or increased status
3273 that the health care provider would have otherwise received.

3274 (6) A person who is adversely impacted by conduct prohibited in Subsection (5) may
3275 bring a civil action for equitable relief, including reinstatement, and for damages. A person
3276 who brings an action under this section must commence the action within three years after the
3277 day on which the cause of action arises.

3278 Section 50. Section **76-7-313** is amended to read:

3279 **76-7-313. Department's enforcement responsibility -- Physician's report to**
3280 **department.**

3281 (1) In order for the department to maintain necessary statistical information and ensure
3282 enforcement of the provisions of this part:

- 3283 (a) any physician performing an abortion must obtain and record in writing:
- 3284 (i) the age, marital status, and county of residence of the woman on whom the abortion
- 3285 was performed;
- 3286 (ii) the number of previous abortions performed on the woman described in Subsection
- 3287 (1)(a)(i);
- 3288 (iii) the hospital or other facility where the abortion was performed;
- 3289 (iv) the weight in grams of the unborn child aborted, if it is possible to ascertain;
- 3290 (v) the pathological description of the unborn child;
- 3291 (vi) the given gestational age of the unborn child;
- 3292 (vii) the date the abortion was performed;
- 3293 (viii) the measurements of the unborn child, if possible to ascertain; and
- 3294 (ix) the medical procedure used to abort the unborn child; and
- 3295 (b) the department shall make rules in accordance with Title 63G, Chapter 3, Utah
- 3296 Administrative Rulemaking Act.
- 3297 (2) Each physician who performs an abortion shall provide the following to the
- 3298 department within 30 days after the day on which the abortion is performed:
- 3299 (a) the information described in Subsection (1);
- 3300 (b) a copy of the pathologist's report described in Section [76-7-309](#);
- 3301 (c) an affidavit:
- 3302 (i) indicating whether the required consent was obtained pursuant to Sections [76-7-305](#)
- 3303 and [76-7-305.5](#);
- 3304 (ii) described in Subsection (3), if applicable; and
- 3305 (iii) indicating whether at the time the physician performed the abortion, the physician
- 3306 had any knowledge that the pregnant woman sought the abortion solely because the unborn
- 3307 child had or may have had Down syndrome; and
- 3308 (d) a certificate indicating:
- 3309 (i) whether the unborn child was or was not viable, as defined in Subsection
- 3310 [76-7-302\(1\)](#), at the time of the abortion;
- 3311 (ii) whether the unborn child was older than 18 weeks gestational age at the time of the
- 3312 abortion; and
- 3313 (iii) if the unborn child was viable, as defined in Subsection [76-7-302\(1\)](#), or older than

3314 18 weeks gestational age at the time of the abortion, the reason for the abortion.

3315 (3) If the information module or the address to the website is not provided to a
3316 pregnant woman, the physician who performs the abortion on the woman shall, within 10 days
3317 after the day on which the abortion is performed, provide to the department an affidavit that:

3318 (a) specifies the information that was not provided to the woman; and

3319 (b) states the reason that the information was not provided to the woman.

3320 (4) All information supplied to the department shall be confidential and privileged
3321 pursuant to [~~Title 26, Chapter 25, Confidential Information Release~~] [Section 26B-1-229](#).

3322 (5) The department shall pursue all administrative and legal remedies when the
3323 department determines that a physician or a facility has not complied with the provisions of this
3324 part.

3325 Section 51. Section **76-7-314** is amended to read:

3326 **76-7-314. Violations of abortion laws -- Classifications.**

3327 (1) A willful violation of Section [76-7-307](#), [76-7-308](#), [76-7-310](#), [76-7-310.5](#), [76-7-311](#),
3328 or [76-7-312](#) is a felony of the third degree.

3329 (2) A violation of Section [76-7-326](#) is a felony of the third degree.

3330 (3) A violation of Section [76-7-302.5](#) or [76-7-314.5](#) is a felony of the second degree.

3331 (4) A violation of any other provision of this part, including Subsections
3332 [76-7-305](#)(2)(a) through (c), and (e), is a class A misdemeanor.

3333 (5) The Department of [~~Health~~] Health and Human Services shall report a physician's
3334 violation of any provision of this part to the Physicians Licensing Board, described in Section
3335 [58-67-201](#).

3336 (6) Any person with knowledge of a physician's violation of any provision of this part
3337 may report the violation to the Physicians Licensing Board, described in Section [58-67-201](#).

3338 (7) In addition to the penalties described in this section, the department may take any
3339 action described in Section [~~26-21-11~~] [26B-2-208](#) against an abortion clinic if a violation of
3340 this chapter occurs at the abortion clinic.

3341 Section 52. Section **76-8-311.1** is amended to read:

3342 **76-8-311.1. Secure areas -- Items prohibited -- Penalty.**

3343 (1) In addition to the definitions in Section [76-10-501](#), as used in this section:

3344 (a) "Correctional facility" has the same meaning as defined in Section [76-8-311.3](#).

3345 (b) "Explosive" has the same meaning as defined for "explosive, chemical, or
3346 incendiary device" defined in Section [76-10-306](#).

3347 (c) "Law enforcement facility" means a facility which is owned, leased, or operated by
3348 a law enforcement agency.

3349 (d) "Mental health facility" has the same meaning as defined in Section [~~62A-15-602~~]
3350 [26B-5-301](#).

3351 (e) (i) "Secure area" means any area into which certain persons are restricted from
3352 transporting any firearm, ammunition, dangerous weapon, or explosive.

3353 (ii) A "secure area" may not include any area normally accessible to the public.

3354 (2) (a) A person in charge of the State Tax Commission or a correctional, law
3355 enforcement, or mental health facility may establish secure areas within the facility and may
3356 prohibit or control by rule any firearm, ammunition, dangerous weapon, or explosive.

3357 (b) Subsections (2)(a), (3), (4), (5), and (6) apply to higher education secure area
3358 hearing rooms referred to in Subsections [53B-3-103](#)(2)(a)(ii) and (b).

3359 (3) At least one notice shall be prominently displayed at each entrance to an area in
3360 which a firearm, ammunition, dangerous weapon, or explosive is restricted.

3361 (4) (a) Provisions shall be made to provide a secure weapons storage area so that
3362 persons entering the secure area may store their weapons prior to entering the secure area.

3363 (b) The entity operating the facility shall be responsible for weapons while they are
3364 stored in the storage area.

3365 (5) It is a defense to any prosecution under this section that the accused, in committing
3366 the act made criminal by this section, acted in conformity with the facility's rule or policy
3367 established pursuant to this section.

3368 (6) (a) Any person who knowingly or intentionally transports into a secure area of a
3369 facility any firearm, ammunition, or dangerous weapon is guilty of a third degree felony.

3370 (b) Any person violates Section [76-10-306](#) who knowingly or intentionally transports,
3371 possesses, distributes, or sells any explosive in a secure area of a facility.

3372 Section 53. Section [76-8-311.3](#) is amended to read:

3373 **76-8-311.3. Items prohibited in correctional and mental health facilities --**
3374 **Penalties.**

3375 (1) As used in this section:

- 3376 (a) "Contraband" means any item not specifically prohibited for possession by
3377 offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.
- 3378 (b) "Controlled substance" means any substance defined as a controlled substance
3379 under Title 58, Chapter 37, Utah Controlled Substances Act.
- 3380 (c) "Correctional facility" means:
- 3381 (i) any facility operated by or contracting with the Department of Corrections to house
3382 offenders in either a secure or nonsecure setting;
- 3383 (ii) any facility operated by a municipality or a county to house or detain criminal
3384 offenders;
- 3385 (iii) any juvenile detention facility; and
- 3386 (iv) any building or grounds appurtenant to the facility or lands granted to the state,
3387 municipality, or county for use as a correctional facility.
- 3388 (d) "Electronic cigarette product" means the same as that term is defined in Section
3389 [76-10-101](#).
- 3390 (e) "Medicine" means any prescription drug as defined in Title 58, Chapter 17b,
3391 Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58,
3392 Chapter 37, Utah Controlled Substances Act.
- 3393 (f) "Mental health facility" means the same as that term is defined in Section
3394 [\[62A-15-602\]](#) [26B-5-301](#).
- 3395 (g) "Nicotine product" means the same as that term is defined in Section [76-10-101](#).
- 3396 (h) "Offender" means a person in custody at a correctional facility.
- 3397 (i) "Secure area" means the same as that term is defined in Section [76-8-311.1](#).
- 3398 (j) "Tobacco product" means the same as that term is defined in Section [76-10-101](#).
- 3399 (2) Notwithstanding Section [76-10-500](#), a correctional or mental health facility may
3400 provide by rule that no firearm, ammunition, dangerous weapon, implement of escape,
3401 explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any
3402 quantity may be:
- 3403 (a) transported to or upon a correctional or mental health facility;
- 3404 (b) sold or given away at any correctional or mental health facility;
- 3405 (c) given to or used by any offender at a correctional or mental health facility; or
- 3406 (d) knowingly or intentionally possessed at a correctional or mental health facility.

3407 (3) It is a defense to any prosecution under this section if the accused in committing the
3408 act made criminal by this section with respect to:

3409 (a) a correctional facility operated by the Department of Corrections, acted in
3410 conformity with departmental rule or policy;

3411 (b) a correctional facility operated by a municipality, acted in conformity with the
3412 policy of the municipality;

3413 (c) a correctional facility operated by a county, acted in conformity with the policy of
3414 the county; or

3415 (d) a mental health facility, acted in conformity with the policy of the mental health
3416 facility.

3417 (4) (a) An individual who transports to or upon a correctional facility, or into a secure
3418 area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of
3419 escape with intent to provide or sell it to any offender, is guilty of a second degree felony.

3420 (b) An individual who provides or sells to any offender at a correctional facility, or any
3421 detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous
3422 weapon, or implement of escape is guilty of a second degree felony.

3423 (c) An offender who possesses at a correctional facility, or a detainee who possesses at
3424 a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or
3425 implement of escape is guilty of a second degree felony.

3426 (d) An individual who, without the permission of the authority operating the
3427 correctional facility or the secure area of a mental health facility, knowingly possesses at a
3428 correctional facility or a secure area of a mental health facility any firearm, ammunition,
3429 dangerous weapon, or implement of escape is guilty of a third degree felony.

3430 (e) An individual violates Section 76-10-306 who knowingly or intentionally
3431 transports, possesses, distributes, or sells any explosive in a correctional facility or mental
3432 health facility.

3433 (5) (a) An individual is guilty of a third degree felony who, without the permission of
3434 the authority operating the correctional facility or secure area of a mental health facility,
3435 knowingly transports to or upon a correctional facility or into a secure area of a mental health
3436 facility any:

3437 (i) spirituous or fermented liquor;

- 3438 (ii) medicine, whether or not lawfully prescribed for the offender; or
- 3439 (iii) poison in any quantity.
- 3440 (b) An individual is guilty of a third degree felony who knowingly violates correctional
- 3441 or mental health facility policy or rule by providing or selling to any offender at a correctional
- 3442 facility or detainee within a secure area of a mental health facility any:
- 3443 (i) spirituous or fermented liquor;
- 3444 (ii) medicine, whether or not lawfully prescribed for the offender; or
- 3445 (iii) poison in any quantity.
- 3446 (c) An inmate is guilty of a third degree felony who, in violation of correctional or
- 3447 mental health facility policy or rule, possesses at a correctional facility or in a secure area of a
- 3448 mental health facility any:
- 3449 (i) spirituous or fermented liquor;
- 3450 (ii) medicine, other than medicine provided by the facility's health care providers in
- 3451 compliance with facility policy; or
- 3452 (iii) poison in any quantity.
- 3453 (d) An individual is guilty of a class A misdemeanor who, with the intent to directly or
- 3454 indirectly provide or sell any tobacco product, electronic cigarette product, or nicotine product
- 3455 to an offender, directly or indirectly:
- 3456 (i) transports, delivers, or distributes any tobacco product, electronic cigarette product,
- 3457 or nicotine product to an offender or on the grounds of any correctional facility;
- 3458 (ii) solicits, requests, commands, coerces, encourages, or intentionally aids another
- 3459 person to transport any tobacco product, electronic cigarette product, or nicotine product to an
- 3460 offender or on any correctional facility, if the person is acting with the mental state required for
- 3461 the commission of an offense; or
- 3462 (iii) facilitates, arranges, or causes the transport of any tobacco product, electronic
- 3463 cigarette product, or nicotine product in violation of this section to an offender or on the
- 3464 grounds of any correctional facility.
- 3465 (e) An individual is guilty of a class A misdemeanor who, without the permission of
- 3466 the authority operating the correctional or mental health facility, fails to declare or knowingly
- 3467 possesses at a correctional facility or in a secure area of a mental health facility any:
- 3468 (i) spirituous or fermented liquor;

3469 (ii) medicine; or

3470 (iii) poison in any quantity.

3471 (f) (i) Except as provided in Subsection (5)(f)(ii), an individual is guilty of a class B
3472 misdemeanor who, without the permission of the authority operating the correctional facility,
3473 knowingly engages in any activity that would facilitate the possession of any contraband by an
3474 offender in a correctional facility.

3475 (ii) The provisions of Subsection (5)(d) regarding any tobacco product, electronic
3476 cigarette product, or nicotine product take precedence over this Subsection (5)(f).

3477 (g) Exemptions may be granted for worship for Native American inmates pursuant to
3478 Section [64-13-40](#).

3479 (6) The possession, distribution, or use of a controlled substance at a correctional
3480 facility or in a secure area of a mental health facility shall be prosecuted in accordance with
3481 Title 58, Chapter 37, Utah Controlled Substances Act.

3482 (7) The department shall make rules under Title 63G, Chapter 3, Utah Administrative
3483 Rulemaking Act, to establish guidelines for providing written notice to visitors that providing
3484 any tobacco product, electronic cigarette product, or nicotine product to offenders is a class A
3485 misdemeanor.

3486 Section 54. Section **76-8-1202** is amended to read:

3487 **76-8-1202. Application of part.**

3488 (1) This part does not apply to offenses by providers under the state's Medicaid
3489 program that are actionable under [~~Title 26, Chapter 20, Utah False Claims Act~~] Title 26B,
3490 Chapter 3, Part 11, Utah False Claims Act.

3491 (2) (a) Section [35A-1-503](#) applies to criminal actions taken under this part.

3492 (b) The repayment of funds or other benefits obtained in violation of the provisions of
3493 this chapter shall not constitute a defense or grounds for dismissal of a criminal action.

3494 Section 55. Section **76-9-307** is amended to read:

3495 **76-9-307. Injury to service animals -- Penalties.**

3496 (1) As used in this section:

3497 (a) "Disability" has the same meaning as defined in Section [~~62A-5b-102~~] [26B-6-801](#).

3498 (b) "Search and rescue dog" means a dog:

3499 (i) with documented training to locate persons who are:

- 3500 (A) lost, missing, or injured; or
3501 (B) trapped under debris as the result of a natural or man-made event; and
3502 (ii) affiliated with an established search and rescue dog organization.
3503 (c) "Service animal" means:
3504 (i) a service animal as defined in Section [~~62A-5b-102~~] 26B-6-801; or
3505 (ii) a search and rescue dog.
- 3506 (2) It is a class A misdemeanor for a person to knowingly, intentionally, or recklessly
3507 cause substantial bodily injury or death to a service animal.
- 3508 (3) It is a class A misdemeanor for a person who owns, keeps, harbors, or exercises
3509 control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient
3510 control over the animal to prevent it from causing:
3511 (a) any substantial bodily injury or the death of a service animal; or
3512 (b) the service animal's subsequent inability to function as a service animal as a result
3513 of the animal's attacking, chasing, or harassing the service animal.
- 3514 (4) It is a class B misdemeanor for a person to chase or harass a service animal.
- 3515 (5) It is a class B misdemeanor for a person who owns, keeps, harbors, or exercises
3516 control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient
3517 control over the animal to prevent it from chasing or harassing a service animal while it is
3518 carrying out its functions as a service animal, to the extent that the animal temporarily
3519 interferes with the service animal's ability to carry out its functions.
- 3520 (6) (a) A service animal is exempt from quarantine or other animal control ordinances
3521 if it bites any person while it is subject to an offense under Subsection (2), (3), (4), or (5).
3522 (b) The owner of the service animal or the person with a disability whom the service
3523 animal serves shall make the animal available for examination at any reasonable time and shall
3524 notify the local health officer if the animal exhibits any abnormal behavior.
- 3525 (7) In addition to any other penalty, a person convicted of any violation of this section
3526 is liable for restitution to the owner of the service animal or the person with a disability whom
3527 the service animal serves for the replacement, training, and veterinary costs incurred as a result
3528 of the violation of this section.
- 3529 (8) If the act committed under this section amounts to an offense subject to a greater
3530 penalty under another provision of Title 76, Utah Criminal Code, than is provided under this

3531 section, this section does not prohibit prosecution and sentencing for the more serious offense.

3532 Section 56. Section **76-9-704** is amended to read:

3533 **76-9-704. Abuse or desecration of a dead human body -- Penalties.**

3534 (1) For purposes of this section, "dead human body" includes any part of a human body
3535 in any stage of decomposition, including ancient human remains as defined in Section [9-8-302](#).

3536 (2) A person is guilty of abuse or desecration of a dead human body if the person
3537 intentionally and unlawfully:

3538 (a) fails to report the finding of a dead human body to a local law enforcement agency;

3539 (b) disturbs, moves, removes, conceals, or destroys a dead human body or any part of
3540 it;

3541 (c) disinters a buried or otherwise interred dead human body, without authority of a
3542 court order;

3543 (d) dismembers a dead human body to any extent, or damages or detaches any part or
3544 portion of a dead human body; or

3545 (e) (i) commits or attempts to commit upon any dead human body any act of sexual
3546 penetration, regardless of the sex of the actor and of the dead human body; and

3547 (ii) as used in Subsection (2)(e)(i), "sexual penetration" means penetration, however
3548 slight, of the genital or anal opening by any object, substance, instrument, or device, including
3549 a part of the human body, or penetration involving the genitals of the actor and the mouth of
3550 the dead human body.

3551 (3) A person does not violate this section if when that person directs or carries out
3552 procedures regarding a dead human body, that person complies with:

3553 (a) Title 9, Chapter 8, Part 3, Antiquities;

3554 (b) ~~[Title 26, Chapter 4, Utah Medical Examiner Act]~~ Title 26B, Chapter 8, Part 2,
3555 Utah Medical Examiner;

3556 (c) ~~[Title 26, Chapter 28, Revised Uniform Anatomical Gift Act]~~ Title 26B, Chapter 8,
3557 Part 3, Revised Uniform Anatomical Gift Act;

3558 (d) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes;

3559 (e) Title 58, Chapter 9, Funeral Services Licensing Act; or

3560 (f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to
3561 practice medicine.

3562 (4) (a) Failure to report the finding of a dead human body as required under Subsection
3563 (2)(a) is a class B misdemeanor.

3564 (b) Abuse or desecration of a dead human body as described in Subsections (2)(b)
3565 through (e) is a third degree felony.

3566 Section 57. Section **76-10-101** is amended to read:

3567 **76-10-101. Definitions.**

3568 As used in this part:

3569 (1) (a) "Alternative nicotine product" means a product, other than a cigarette, a
3570 counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a
3571 tobacco product, that:

3572 (i) contains nicotine;

3573 (ii) is intended for human consumption;

3574 (iii) is not purchased with a prescription from a licensed physician; and

3575 (iv) is not approved by the United States Food and Drug Administration as nicotine
3576 replacement therapy.

3577 (b) "Alternative nicotine product" includes:

3578 (i) pure nicotine;

3579 (ii) snortable nicotine;

3580 (iii) dissolvable salts, orbs, pellets, sticks, or strips; and

3581 (iv) nicotine-laced food and beverage.

3582 (c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that
3583 contains naturally occurring nicotine.

3584 (2) "Cigar" means a product that contains nicotine, is intended to be burned under
3585 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in
3586 any substance containing tobacco, other than any roll of tobacco that is a cigarette.

3587 (3) "Cigarette" means a product that contains nicotine, is intended to be heated or
3588 burned under ordinary conditions of use, and consists of:

3589 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

3590 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of
3591 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to
3592 be offered to, or purchased by, consumers as a cigarette described in Subsection (3)(a).

- 3593 (4) (a) "Electronic cigarette" means:
- 3594 (i) any electronic oral device:
- 3595 (A) that provides an aerosol or a vapor of nicotine or other substance; and
- 3596 (B) which simulates smoking through the use or inhalation of the device;
- 3597 (ii) a component of the device described in Subsection (4)(a)(i); or
- 3598 (iii) an accessory sold in the same package as the device described in Subsection
- 3599 (4)(a)(i).
- 3600 (b) "Electronic cigarette" includes an oral device that is:
- 3601 (i) composed of a heating element, battery, or electronic circuit; and
- 3602 (ii) marketed, manufactured, distributed, or sold as:
- 3603 (A) an e-cigarette;
- 3604 (B) an e-cigar;
- 3605 (C) an e-pipe; or
- 3606 (D) any other product name or descriptor, if the function of the product meets the
- 3607 definition of Subsection (4)(a).
- 3608 (c) "Electronic cigarette" does not mean a medical cannabis device, as that term is
- 3609 defined in Section [~~26-61a-102~~] [26B-4-201](#).
- 3610 (5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette
- 3611 substance, or a prefilled electronic cigarette.
- 3612 (6) "Electronic cigarette substance" means any substance, including liquid containing
- 3613 nicotine, used or intended for use in an electronic cigarette.
- 3614 (7) (a) "Flavored electronic cigarette product" means an electronic cigarette product
- 3615 that has a taste or smell that is distinguishable by an ordinary consumer either before or during
- 3616 use or consumption of the electronic cigarette product.
- 3617 (b) "Flavored electronic cigarette product" includes an electronic cigarette product that
- 3618 has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic
- 3619 beverage, herb, or spice.
- 3620 (c) "Flavored electronic cigarette product" does not include an electronic cigarette
- 3621 product that:
- 3622 (i) has a taste or smell of only tobacco, mint, or menthol; or
- 3623 (ii) has been approved by an order granting a premarket tobacco product application of

3624 the electronic cigarette product by the United States Food and Drug Administration under 21
3625 U.S.C. Sec. 387j(c)(1)(A)(i).

3626 (8) "Nicotine" means a poisonous, nitrogen containing chemical that is made
3627 synthetically or derived from tobacco or other plants.

3628 (9) "Nicotine product" means an alternative nicotine product or a nontherapeutic
3629 nicotine product.

3630 (10) (a) "Nontherapeutic nicotine device" means a device that:

3631 (i) has a pressurized canister that is used to administer nicotine to the user through
3632 inhalation or intranasally;

3633 (ii) is not purchased with a prescription from a licensed physician; and

3634 (iii) is not approved by the United States Food and Drug Administration as nicotine
3635 replacement therapy.

3636 (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a
3637 nontherapeutic nicotine nasal spray.

3638 (11) "Nontherapeutic nicotine device substance" means a substance that:

3639 (a) contains nicotine;

3640 (b) is sold in a cartridge for use in a nontherapeutic nicotine device;

3641 (c) is not purchased with a prescription from a licensed physician; and

3642 (d) is not approved by the United States Food and Drug Administration as nicotine
3643 replacement therapy.

3644 (12) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a
3645 nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.

3646 (13) "Place of business" includes:

3647 (a) a shop;

3648 (b) a store;

3649 (c) a factory;

3650 (d) a public garage;

3651 (e) an office;

3652 (f) a theater;

3653 (g) a recreation hall;

3654 (h) a dance hall;

- 3655 (i) a poolroom;
- 3656 (j) a cafe;
- 3657 (k) a cafeteria;
- 3658 (l) a cabaret;
- 3659 (m) a restaurant;
- 3660 (n) a hotel;
- 3661 (o) a lodging house;
- 3662 (p) a streetcar;
- 3663 (q) a bus;
- 3664 (r) an interurban or railway passenger coach;
- 3665 (s) a waiting room; and
- 3666 (t) any other place of business.
- 3667 (14) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled
- 3668 with an electronic cigarette substance.
- 3669 (15) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device
- 3670 that is sold prefilled with a nontherapeutic nicotine device substance.
- 3671 (16) "Retail tobacco specialty business" means the same as that term is defined in
- 3672 Section ~~[26-62-102]~~ [26B-7-501](#).
- 3673 (17) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other
- 3674 lighted smoking equipment.
- 3675 (18) (a) "Tobacco paraphernalia" means equipment, product, or material of any kind
- 3676 that is used, intended for use, or designed for use to package, repack, store, contain,
- 3677 conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic cigarette
- 3678 substance, or a nontherapeutic nicotine device substance into the human body.
- 3679 (b) "Tobacco paraphernalia" includes:
- 3680 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
- 3681 screens, permanent screens, hashish heads, or punctured metal bowls;
- 3682 (ii) water pipes;
- 3683 (iii) carburetion tubes and devices;
- 3684 (iv) smoking and carburetion masks;
- 3685 (v) roach clips, meaning objects used to hold burning material, such as a cigarette, that

3686 has become too small or too short to be held in the hand;

3687 (vi) chamber pipes;

3688 (vii) carburetor pipes;

3689 (viii) electric pipes;

3690 (ix) air-driven pipes;

3691 (x) chillums;

3692 (xi) bongs; and

3693 (xii) ice pipes or chillers.

3694 (c) "Tobacco paraphernalia" does not include matches or lighters.

3695 (19) "Tobacco product" means:

3696 (a) a cigar;

3697 (b) a cigarette; or

3698 (c) tobacco in any form, including:

3699 (i) chewing tobacco; and

3700 (ii) any substitute for tobacco, including flavoring or additives to tobacco.

3701 (20) "Tobacco retailer" means:

3702 (a) a general tobacco retailer, as that term is defined in Section ~~[26-62-102]~~ [26B-7-501](#);

3703 or

3704 (b) a retail tobacco specialty business.

3705 Section 58. Section **76-10-526** is amended to read:

3706 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**
3707 **Exemption for concealed firearm permit holders and law enforcement officers.**

3708 (1) For purposes of this section, "valid permit to carry a concealed firearm" does not
3709 include a temporary permit issued under Section [53-5-705](#).

3710 (2) (a) To establish personal identification and residence in this state for purposes of
3711 this part, a dealer shall require an individual receiving a firearm to present one photo
3712 identification on a form issued by a governmental agency of the state.

3713 (b) A dealer may not accept a driving privilege card issued under Section [53-3-207](#) as
3714 proof of identification for the purpose of establishing personal identification and residence in
3715 this state as required under this Subsection (2).

3716 (3) (a) A criminal history background check is required for the sale of a firearm by a

3717 licensed firearm dealer in the state.

3718 (b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms
3719 Licensee.

3720 (4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a
3721 criminal background check, on a form provided by the bureau.

3722 (b) The form shall contain the following information:

3723 (i) the dealer identification number;

3724 (ii) the name and address of the individual receiving the firearm;

3725 (iii) the date of birth, height, weight, eye color, and hair color of the individual
3726 receiving the firearm; and

3727 (iv) the social security number or any other identification number of the individual
3728 receiving the firearm.

3729 (5) (a) The dealer shall send the information required by Subsection (4) to the bureau
3730 immediately upon its receipt by the dealer.

3731 (b) A dealer may not sell or transfer a firearm to an individual until the dealer has
3732 provided the bureau with the information in Subsection (4) and has received approval from the
3733 bureau under Subsection (7).

3734 (6) The dealer shall make a request for criminal history background information by
3735 telephone or other electronic means to the bureau and shall receive approval or denial of the
3736 inquiry by telephone or other electronic means.

3737 (7) When the dealer calls for or requests a criminal history background check, the
3738 bureau shall:

3739 (a) review the criminal history files, including juvenile court records, and the
3740 temporary restricted file created under Section 53-5c-301, to determine if the individual is
3741 prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

3742 (b) inform the dealer that:

3743 (i) the records indicate the individual is prohibited; or

3744 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;

3745 (c) provide the dealer with a unique transaction number for that inquiry; and

3746 (d) provide a response to the requesting dealer during the call for a criminal

3747 background check, or by return call, or other electronic means, without delay, except in case of

3748 electronic failure or other circumstances beyond the control of the bureau, the bureau shall
3749 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the
3750 delay.

3751 (8) (a) The bureau may not maintain any records of the criminal history background
3752 check longer than 20 days from the date of the dealer's request, if the bureau determines that
3753 the individual receiving the firearm is not prohibited from purchasing, possessing, or
3754 transferring the firearm under state or federal law.

3755 (b) However, the bureau shall maintain a log of requests containing the dealer's federal
3756 firearms number, the transaction number, and the transaction date for a period of 12 months.

3757 (9) (a) If the criminal history background check discloses information indicating that
3758 the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or
3759 transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction
3760 where the individual resides.

3761 (b) Subsection (9)(a) does not apply to an individual prohibited from purchasing a
3762 firearm solely due to placement on the temporary restricted list under Section [53-5c-301](#).

3763 (c) A law enforcement agency that receives information from the bureau under
3764 Subsection (9)(a) shall provide a report before August 1 of each year to the bureau that
3765 includes:

3766 (i) based on the information the bureau provides to the law enforcement agency under
3767 Subsection (9)(a), the number of cases that involve an individual who is prohibited from
3768 purchasing, possessing, or transferring a firearm as a result of a conviction for an offense
3769 involving domestic violence; and

3770 (ii) of the cases described in Subsection (9)(c)(i):

3771 (A) the number of cases the law enforcement agency investigates; and

3772 (B) the number of cases the law enforcement agency investigates that result in a
3773 criminal charge.

3774 (d) The bureau shall:

3775 (i) compile the information from the reports described in Subsection (9)(c);

3776 (ii) omit or redact any identifying information in the compilation; and

3777 (iii) submit the compilation to the Law Enforcement and Criminal Justice Interim
3778 Committee before November 1 of each year.

3779 (10) If an individual is denied the right to purchase a firearm under this section, the
3780 individual may review the individual's criminal history information and may challenge or
3781 amend the information as provided in Section 53-10-108.

3782 (11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah
3783 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all
3784 records provided by the bureau under this part are in conformance with the requirements of the
3785 Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

3786 (12) (a) A dealer shall collect a criminal history background check fee for the sale of a
3787 firearm under this section.

3788 (b) The fee described under Subsection (12)(a) remains in effect until changed by the
3789 bureau through the process described in Section 63J-1-504.

3790 (c) (i) The dealer shall forward at one time all fees collected for criminal history
3791 background checks performed during the month to the bureau by the last day of the month
3792 following the sale of a firearm.

3793 (ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover
3794 the cost of administering and conducting the criminal history background check program.

3795 (13) An individual with a concealed firearm permit issued under Title 53, Chapter 5,
3796 Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee
3797 required in this section for the purchase of a firearm if:

3798 (a) the individual presents the individual's concealed firearm permit to the dealer prior
3799 to purchase of the firearm; and

3800 (b) the dealer verifies with the bureau that the individual's concealed firearm permit is
3801 valid.

3802 (14) (a) A law enforcement officer, as defined in Section 53-13-103, is exempt from
3803 the background check fee required in this section for the purchase of a personal firearm to be
3804 carried while off-duty if the law enforcement officer verifies current employment by providing
3805 a letter of good standing from the officer's commanding officer and current law enforcement
3806 photo identification.

3807 (b) Subsection (14)(a) may only be used by a law enforcement officer to purchase a
3808 personal firearm once in a 24-month period.

3809 (15) A dealer engaged in the business of selling, leasing, or otherwise transferring any

3810 firearm shall:

3811 (a) make the firearm safety brochure described in Subsection [~~62A-15-103(3)~~]
3812 26B-5-102(3) available to a customer free of charge; and

3813 (b) at the time of purchase, distribute a cable-style gun lock provided to the dealer
3814 under Subsection [~~62A-15-103(3)~~] 26B-5-102(3) to a customer purchasing a shotgun, short
3815 barreled shotgun, short barreled rifle, rifle, or another firearm that federal law does not require
3816 be accompanied by a gun lock at the time of purchase.

3817 Section 59. Section **76-10-528** is amended to read:

3818 **76-10-528. Carrying a dangerous weapon while under influence of alcohol or**
3819 **drugs unlawful.**

3820 (1) It is a class B misdemeanor for an actor to carry a dangerous weapon while under
3821 the influence of:

3822 (a) alcohol as determined by the actor's blood or breath alcohol concentration in
3823 accordance with Subsections 41-6a-502(1)(a) through (c); or

3824 (b) a controlled substance as defined in Section 58-37-2.

3825 (2) This section does not apply to:

3826 (a) an actor carrying a dangerous weapon that is either securely encased, as defined in
3827 this part, or not within such close proximity and in such a manner that it can be retrieved and
3828 used as readily as if carried on the person;

3829 (b) an actor who uses or threatens to use force in compliance with Section 76-2-402;

3830 (c) an actor carrying a dangerous weapon in the actor's residence or the residence of
3831 another with the consent of the individual who is lawfully in possession;

3832 (d) an actor under the influence of cannabis or a cannabis product, as those terms are
3833 defined in Section [~~26-61a-102~~] 26B-4-201, if the actor's use of the cannabis or cannabis
3834 product complies with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter
3835 4, Part 2, Cannabinoid Research and Medical Cannabis; or

3836 (e) an actor who:

3837 (i) has a valid prescription for a medication approved by the federal Food and Drug
3838 Administration for the treatment of attention deficit disorder or attention deficit hyperactivity
3839 disorder; and

3840 (ii) takes the medication described in Subsection (2)(e)(i) as prescribed.

3841 (3) It is not a defense to prosecution under this section that the actor:

3842 (a) is licensed in the pursuit of wildlife of any kind; or

3843 (b) has a valid permit to carry a concealed firearm.

3844 Section 60. Section **76-10-1311** is amended to read:

3845 **76-10-1311. Mandatory testing -- Retention of offender medical file -- Civil**
3846 **liability.**

3847 (1) A person who has entered a plea of guilty, a plea of no contest, a plea of guilty and
3848 mentally ill, or been found guilty for violation of Section [76-10-1302](#), [76-10-1303](#), or
3849 [76-10-1313](#) shall be required to submit to a mandatory test to determine if the offender is an
3850 HIV positive individual. The mandatory test shall be required and conducted prior to
3851 sentencing.

3852 (2) If the mandatory test has not been conducted prior to sentencing, and the convicted
3853 offender is already confined in a county jail or state prison, such person shall be tested while in
3854 confinement.

3855 (3) The local law enforcement agency shall cause the blood specimen of the offender as
3856 defined in Subsection (1) confined in county jail to be taken and tested.

3857 (4) The Department of Corrections shall cause the blood specimen of the offender
3858 defined in Subsection (1) confined in any state prison to be taken and tested.

3859 (5) The local law enforcement agency shall collect and retain in the offender's medical
3860 file the following data:

3861 (a) the HIV infection test results;

3862 (b) a copy of the written notice as provided in Section [76-10-1312](#);

3863 (c) photographic identification; and

3864 (d) fingerprint identification.

3865 (6) The local law enforcement agency shall classify the medical file as a private record
3866 pursuant to Subsection [63G-2-302](#)(1)(b) or a controlled record pursuant to Section [63G-2-304](#).

3867 (7) The person tested shall be responsible for the costs of testing, unless the person is
3868 indigent. The costs will then be paid by the local law enforcement agency or the Department of
3869 Corrections from the General Fund.

3870 (8) (a) The laboratory performing testing shall report test results to only designated
3871 officials in the Department of Corrections, the Department of ~~Health~~ Health and Human

3872 Services, and the local law enforcement agency submitting the blood specimen.

3873 (b) Each department or agency shall designate those officials by written policy.

3874 (c) Designated officials may release information identifying an offender under Section

3875 [76-10-1302](#), [76-10-1303](#), or [76-10-1313](#) who has tested HIV positive as provided under

3876 Subsection [63G-2-202\(1\)](#) and for purposes of prosecution pursuant to Section [76-10-1309](#).

3877 (9) (a) An employee of the local law enforcement agency, the Department of

3878 Corrections, or the Department of [~~Health~~] Health and Human Services who discloses the HIV

3879 test results under this section is not civilly liable except when disclosure constitutes fraud or

3880 willful misconduct as provided in Section [63G-7-202](#).

3881 (b) An employee of the local law enforcement agency, the Department of Corrections,

3882 or the Department of [~~Health~~] Health and Human Services who discloses the HIV test results

3883 under this section is not civilly or criminally liable, except when disclosure constitutes a

3884 knowing violation of Section [63G-2-801](#).

3885 (10) When the medical file is released as provided in Section [63G-2-803](#), the local law

3886 enforcement agency, the Department of Corrections, or the Department of [~~Health~~] Health and

3887 Human Services or its officers or employees are not liable for damages for release of the

3888 medical file.

3889 Section 61. Section [76-10-1312](#) is amended to read:

3890 **[76-10-1312](#). Notice to offender of HIV positive test results.**

3891 (1) A person convicted under Section [76-10-1302](#), [76-10-1303](#), or [76-10-1313](#) who has

3892 tested positive for the HIV infection shall be notified of the test results in person by:

3893 (a) the local law enforcement agency;

3894 (b) the Department of Corrections, for offenders confined in any state prison;

3895 (c) the state Department of [~~Health~~] Health and Human Services; or

3896 (d) an authorized representative of any of the agencies listed in this Subsection (1).

3897 (2) The notice under Subsection (1) shall contain the signature of the HIV positive

3898 person, indicating the person's receipt of the notice, the name and signature of the person

3899 providing the notice, and:

3900 (a) the date of the test;

3901 (b) the positive test results;

3902 (c) the name of the HIV positive individual; and

3903 (d) the following language:

3904 "A person who has been convicted of prostitution under Section 76-10-1302,
3905 patronizing a prostitute under Section 76-10-1303, or sexual solicitation under Section
3906 76-10-1313 after being tested and diagnosed as an HIV positive individual and either had
3907 actual knowledge that the person is an HIV positive individual or the person has previously
3908 been convicted of any of the criminal offenses listed above is guilty of a third degree felony
3909 under Section 76-10-1309."

3910 (3) Failure to provide this notice, or to provide the notice in the manner or form
3911 prescribed under this section, does not create any civil liability and does not create a defense to
3912 any prosecution under this part.

3913 (4) Upon conviction under Section 76-10-1309, and as a condition of probation, the
3914 offender shall receive treatment and counseling for HIV infection and drug abuse as provided
3915 in [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5,
3916 Health Care -- Substance Use and Mental Health.

3917 Section 62. Section 76-10-1602 is amended to read:

3918 **76-10-1602. Definitions.**

3919 As used in this part:

3920 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
3921 business trust, association, or other legal entity, and any union or group of individuals
3922 associated in fact although not a legal entity, and includes illicit as well as licit entities.

3923 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
3924 commission of at least three episodes of unlawful activity, which episodes are not isolated, but
3925 have the same or similar purposes, results, participants, victims, or methods of commission, or
3926 otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall
3927 demonstrate continuing unlawful conduct and be related either to each other or to the
3928 enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have
3929 occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful
3930 activity as defined by this part shall have occurred within five years of the commission of the
3931 next preceding act alleged as part of the pattern.

3932 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
3933 interest in property, including state, county, and local governmental entities.

3934 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request,
3935 command, encourage, or intentionally aid another person to engage in conduct which would
3936 constitute any offense described by the following crimes or categories of crimes, or to attempt
3937 or conspire to engage in an act which would constitute any of those offenses, regardless of
3938 whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor
3939 or a felony:

3940 (a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized
3941 Recording Practices Act;

3942 (b) any act prohibited by the criminal provisions of Title 19, Environmental Quality
3943 Code, Sections [19-1-101](#) through [19-7-109](#);

3944 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary
3945 purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources
3946 Code of Utah, or Section [23-20-4](#);

3947 (d) false claims for medical benefits, kickbacks, and any other act prohibited by [~~Title~~
3948 ~~26, Chapter 20, Utah False Claims Act, Sections [26-20-1](#) through [26-20-12](#)] Title 26B, Chapter
3949 3, Part 11, Utah False Claims Act, Sections [26B-3-1101](#) through [26B-3-1112](#);~~

3950 (e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal
3951 Offenses and Procedure Act;

3952 (f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform
3953 Land Sales Practices Act;

3954 (g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah
3955 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act,
3956 Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d,
3957 Clandestine Drug Lab Act;

3958 (h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform
3959 Securities Act;

3960 (i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah
3961 Procurement Code;

3962 (j) assault or aggravated assault, Sections [76-5-102](#) and [76-5-103](#);

3963 (k) a threat of terrorism, Section [76-5-107.3](#);

3964 (l) a criminal homicide offense, as described in Section [76-5-201](#);

- 3965 (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;
- 3966 (n) human trafficking, human trafficking of a child, human smuggling, or aggravated
- 3967 human trafficking, Sections 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-309, and
- 3968 76-5-310;
- 3969 (o) sexual exploitation of a minor or aggravated sexual exploitation of a minor,
- 3970 Sections 76-5b-201 and 76-5b-201.1;
- 3971 (p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;
- 3972 (q) causing a catastrophe, Section 76-6-105;
- 3973 (r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;
- 3974 (s) burglary of a vehicle, Section 76-6-204;
- 3975 (t) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;
- 3976 (u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;
- 3977 (v) theft, Section 76-6-404;
- 3978 (w) theft by deception, Section 76-6-405;
- 3979 (x) theft by extortion, Section 76-6-406;
- 3980 (y) receiving stolen property, Section 76-6-408;
- 3981 (z) theft of services, Section 76-6-409;
- 3982 (aa) forgery, Section 76-6-501;
- 3983 (bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3, 76-6-506.5, and
- 3984 76-6-506.6;
- 3985 (cc) deceptive business practices, Section 76-6-507;
- 3986 (dd) bribery or receiving bribe by person in the business of selection, appraisal, or
- 3987 criticism of goods, Section 76-6-508;
- 3988 (ee) bribery of a labor official, Section 76-6-509;
- 3989 (ff) defrauding creditors, Section 76-6-511;
- 3990 (gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;
- 3991 (hh) unlawful dealing with property by fiduciary, Section 76-6-513;
- 3992 (ii) bribery or threat to influence contest, Section 76-6-514;
- 3993 (jj) making a false credit report, Section 76-6-517;
- 3994 (kk) criminal simulation, Section 76-6-518;
- 3995 (ll) criminal usury, Section 76-6-520;

- 3996 (mm) fraudulent insurance act, Section 76-6-521;
- 3997 (nn) retail theft, Section 76-6-602;
- 3998 (oo) computer crimes, Section 76-6-703;
- 3999 (pp) identity fraud, Section 76-6-1102;
- 4000 (qq) mortgage fraud, Section 76-6-1203;
- 4001 (rr) sale of a child, Section 76-7-203;
- 4002 (ss) bribery to influence official or political actions, Section 76-8-103;
- 4003 (tt) threats to influence official or political action, Section 76-8-104;
- 4004 (uu) receiving bribe or bribery by public servant, Section 76-8-105;
- 4005 (vv) receiving bribe or bribery for endorsement of person as public servant, Section
- 4006 76-8-106;
- 4007 (ww) official misconduct, Sections 76-8-201 and 76-8-202;
- 4008 (xx) obstruction of justice, Section 76-8-306;
- 4009 (yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- 4010 (zz) false or inconsistent material statements, Section 76-8-502;
- 4011 (aaa) false or inconsistent statements, Section 76-8-503;
- 4012 (bbb) written false statements, Section 76-8-504;
- 4013 (ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
- 4014 (ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;
- 4015 (eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- 4016 (fff) tampering with evidence, Section 76-8-510.5;
- 4017 (ggg) falsification or alteration of government record, Section 76-8-511, if the record is
- 4018 a record described in Title 20A, Election Code, Title 36, Chapter 11, Lobbyist Disclosure and
- 4019 Regulation Act, or Title 36, Chapter 11a, Local Government and Board of Education Lobbyist
- 4020 Disclosure and Regulation Act;
- 4021 (hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or
- 4022 76-8-1205;
- 4023 (iii) unemployment insurance fraud, Section 76-8-1301;
- 4024 (jjj) intentionally or knowingly causing one animal to fight with another, Subsection
- 4025 76-9-301(2)(d) or (e), or Section 76-9-301.1;
- 4026 (kkk) possession, use, or removal of explosives, chemical, or incendiary devices or

4027 parts, Section 76-10-306;
4028 (lll) delivery to common carrier, mailing, or placement on premises of an incendiary
4029 device, Section 76-10-307;
4030 (mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;
4031 (nnn) unlawful marking of pistol or revolver, Section 76-10-521;
4032 (ooo) alteration of number or mark on pistol or revolver, Section 76-10-522;
4033 (ppp) forging or counterfeiting trademarks, trade name, or trade device, Section
4034 76-10-1002;
4035 (qqq) selling goods under counterfeited trademark, trade name, or trade devices,
4036 Section 76-10-1003;
4037 (rrr) sales in containers bearing registered trademark of substituted articles, Section
4038 76-10-1004;
4039 (sss) selling or dealing with article bearing registered trademark or service mark with
4040 intent to defraud, Section 76-10-1006;
4041 (ttt) gambling, Section 76-10-1102;
4042 (uuu) gambling fraud, Section 76-10-1103;
4043 (vvv) gambling promotion, Section 76-10-1104;
4044 (www) possessing a gambling device or record, Section 76-10-1105;
4045 (xxx) confidence game, Section 76-10-1109;
4046 (yyy) distributing pornographic material, Section 76-10-1204;
4047 (zzz) inducing acceptance of pornographic material, Section 76-10-1205;
4048 (aaaa) dealing in harmful material to a minor, Section 76-10-1206;
4049 (bbbb) distribution of pornographic films, Section 76-10-1222;
4050 (cccc) indecent public displays, Section 76-10-1228;
4051 (dddd) prostitution, Section 76-10-1302;
4052 (eeee) aiding prostitution, Section 76-10-1304;
4053 (ffff) exploiting prostitution, Section 76-10-1305;
4054 (gggg) aggravated exploitation of prostitution, Section 76-10-1306;
4055 (hhhh) communications fraud, Section 76-10-1801;
4056 (iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and
4057 Currency Transaction Reporting Act;

4058 (jjjj) vehicle compartment for contraband, Section [76-10-2801](#);
4059 (kkkk) any act prohibited by the criminal provisions of the laws governing taxation in
4060 this state; and

4061 (llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C.
4062 Sec. 1961(1)(B), (C), and (D).

4063 Section 63. Section **76-10-2204** is amended to read:

4064 **76-10-2204. Duty to report drug diversion.**

4065 (1) As used in this section:

4066 (a) "Diversion" means a practitioner's transfer of a significant amount of drugs to
4067 another for an unlawful purpose.

4068 (b) "Drug" means a Schedule II or Schedule III controlled substance, as defined in
4069 Section [58-37-4](#), that is an opiate.

4070 (c) "HIPAA" means the same as that term is defined in Section [~~26-18-17~~] [26B-3-126](#).

4071 (d) "Opiate" means the same as that term is defined in Section [58-37-2](#).

4072 (e) "Practitioner" means an individual:

4073 (i) licensed, registered, or otherwise authorized by the appropriate jurisdiction to
4074 administer, dispense, distribute, or prescribe a drug in the course of professional practice; or

4075 (ii) employed by a person who is licensed, registered, or otherwise authorized by the
4076 appropriate jurisdiction to administer, dispense, distribute, or prescribe a drug in the course of
4077 professional practice or standard operations.

4078 (f) "Significant amount" means an aggregate amount equal to, or more than, 500
4079 morphine milligram equivalents calculated in accordance with guidelines developed by the
4080 Centers for Disease Control and Prevention (CDC).

4081 (2) An individual is guilty of a class B misdemeanor if the individual:

4082 (a) knows that a practitioner is involved in diversion; and

4083 (b) knowingly fails to report the diversion to a peace officer or law enforcement
4084 agency.

4085 (3) Subsection (2) does not apply to the extent that an individual is prohibited from
4086 reporting by 42 C.F.R. Part 2 or HIPAA.

4087 Section 64. Section **76-10-3105** is amended to read:

4088 **76-10-3105. Exempt activities.**

4089 (1) This act may not be construed to prohibit:

4090 (a) the activities of any public utility to the extent that those activities are subject to
4091 regulation by the public service commission, the state or federal department of transportation,
4092 the federal energy regulatory commission, the federal communications commission, the
4093 interstate commerce commission, or successor agencies;

4094 (b) the activities of any insurer, insurance producer, independent insurance adjuster, or
4095 rating organization including, but not limited to, making or participating in joint underwriting
4096 or reinsurance arrangements, to the extent that those activities are subject to regulation by the
4097 commissioner of insurance;

4098 (c) the activities of securities dealers, issuers, or agents, to the extent that those
4099 activities are subject to regulation under the laws of either this state or the United States;

4100 (d) the activities of any state or national banking institution, to the extent that the
4101 activities are regulated or supervised by state government officers or agencies under the
4102 banking laws of this state or by federal government officers or agencies under the banking laws
4103 of the United States;

4104 (e) the activities of any state or federal savings and loan association to the extent that
4105 those activities are regulated or supervised by state government officers or agencies under the
4106 banking laws of this state or federal government officers or agencies under the banking laws of
4107 the United States;

4108 (f) the activities of a political subdivision to the extent authorized or directed by state
4109 law, consistent with the state action doctrine of federal antitrust law; or

4110 (g) the activities of an emergency medical service provider licensed under [~~Title 26;~~
4111 ~~Chapter 8a, Utah Emergency Medical Services System Act~~] Title 26B, Chapter 4, Part 1, Utah
4112 Emergency Medical Services System, to the extent that those activities are regulated by state
4113 government officers or agencies under that act.

4114 (2) (a) The labor of a human being is not a commodity or article of commerce.

4115 (b) Nothing contained in the antitrust laws shall be construed to forbid the existence
4116 and operation of labor, agricultural, or horticultural organizations, instituted for the purpose of
4117 mutual help and not having capital stock or conducted for profit, or to forbid or restrain
4118 individual members of these organizations from lawfully carrying out their legitimate objects;
4119 nor may these organizations or membership in them be held to be illegal combinations or

4120 conspiracies in restraint of trade under the antitrust laws.

4121 (3) (a) As used in this section, an entity is also a municipality if the entity was formed
4122 under Title 11, Chapter 13, Interlocal Cooperation Act, prior to January 1, 1981, and the entity
4123 is:

4124 (i) a project entity as defined in Section 11-13-103;

4125 (ii) an electric interlocal entity as defined in Section 11-13-103; or

4126 (iii) an energy services interlocal entity as defined in Section 11-13-103.

4127 (b) The activities of the entities under Subsection (3)(a) are authorized or directed by
4128 state law.

4129 Section 65. Section 77-15-6 is amended to read:

4130 **77-15-6. Commitment on finding of incompetency to stand trial -- Subsequent**
4131 **hearings -- Notice to prosecuting attorneys.**

4132 (1) (a) Except as provided in Subsection (5), if after a hearing a court finds a defendant
4133 to be incompetent to proceed, the court shall order the defendant committed to the department
4134 for restoration treatment.

4135 (b) The court may recommend but may not order placement of the defendant. The
4136 court may, however, order that the defendant be placed in a secure setting rather than a
4137 nonsecure setting. Following restoration screening, the department's designee shall designate
4138 and inform the court of the specific placement and restoration treatment program for the
4139 defendant.

4140 (c) Restoration treatment shall be of sufficient scope and duration to:

4141 (i) restore the individual to competency; or

4142 (ii) determine whether the individual can be restored to competency in the foreseeable
4143 future.

4144 (d) A defendant whom a court determines is incompetent to proceed may not be held
4145 for restoration treatment longer than:

4146 (i) the time reasonably necessary to determine whether there is a substantial probability
4147 that the defendant will become competent to stand trial in the foreseeable future, or that the
4148 defendant cannot become competent to stand trial in the foreseeable future; and

4149 (ii) the maximum period of incarceration that the defendant could receive if the
4150 defendant were convicted of the most severe offense of the offenses charged.

4151 (2) (a) A defendant who is receiving restoration treatment shall receive a progress
4152 toward competency evaluation, by:

4153 (i) a forensic evaluator, designated by the department; and

4154 (ii) an additional forensic evaluator, if requested by a party and paid for by the
4155 requesting party.

4156 (b) A forensic evaluator shall complete a progress toward competency evaluation and
4157 submit a report within 90 days after the day on which the forensic evaluator receives the
4158 commitment order. If the forensic evaluator is unable to complete the report within 90 days, the
4159 forensic evaluator shall provide to the court and counsel a summary progress statement that
4160 informs the court that additional time is necessary to complete the report, in which case the
4161 examiner shall have up to an additional 45 days to provide the full report.

4162 (c) The report shall:

4163 (i) assess whether the defendant is exhibiting false or exaggerated physical or
4164 psychological symptoms;

4165 (ii) describe any diagnostic instruments, methods, and observations used by the
4166 examiner to make the determination;

4167 (iii) state the forensic evaluator's opinion as to the effect of any false or exaggerated
4168 symptoms on the defendant's competency to stand trial;

4169 (iv) assess the facility's or program's capacity to provide appropriate restoration
4170 treatment for the defendant;

4171 (v) assess the nature of restoration treatment provided to the defendant;

4172 (vi) assess what progress the defendant has made toward competency restoration, with
4173 respect to the factors identified by the court in its initial order;

4174 (vii) describe the defendant's current level of intellectual or developmental disability
4175 and need for treatment, if any; and

4176 (viii) assess the likelihood of restoration to competency, the amount of time estimated
4177 to achieve competency, or the amount of time estimated to determine whether restoration to
4178 competency may be achieved.

4179 (3) The court on its own motion or upon motion by either party or the department may
4180 appoint an additional forensic evaluator to conduct a progress toward competency evaluation. If
4181 the court appoints an additional forensic evaluator upon motion of a party, that party shall pay

4182 the costs of the additional forensic evaluator.

4183 (4) Within 15 days after the day on which the court receives the forensic evaluator's
4184 report of the progress toward competency evaluation, the court shall hold a hearing to review
4185 the defendant's competency. At the hearing, the burden of proving that the defendant is
4186 competent to stand trial is on the proponent of competency. Following the hearing, the court
4187 shall determine by a preponderance of evidence whether the defendant is:

4188 (a) competent to stand trial;

4189 (b) incompetent to proceed, with a substantial probability that the defendant may
4190 become competent in the foreseeable future; or

4191 (c) incompetent to proceed, without a substantial probability that the defendant may
4192 become competent in the foreseeable future.

4193 (5) (a) If the court determines that the defendant is competent to stand trial, the court
4194 shall:

4195 (i) proceed with the trial or other procedures as may be necessary to adjudicate the
4196 charges; and

4197 (ii) order that the defendant be returned to the placement and status that the defendant
4198 was in at the time when the petition for the adjudication of competency was filed, unless the
4199 court determines that a different placement is more appropriate.

4200 (b) If the court determines that the defendant is not competent to proceed but that there
4201 is a substantial probability that the defendant may become competent in the foreseeable future,
4202 the court may order that the defendant remain committed to the department or the department's
4203 designee for the purpose of restoration treatment.

4204 (c) If the court determines that the defendant is incompetent to proceed and that there is
4205 not a substantial probability that the defendant may become competent in the foreseeable
4206 future, the court shall order the defendant released from commitment to the department, unless
4207 the prosecutor informs the court that commitment proceedings pursuant to [~~Title 62A, Chapter~~
4208 ~~5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental~~
4209 ~~Health Act]~~ Title 26B, Chapter 5, Health Care -- Substance Use and Mental Health, or Title
4210 26B, Chapter 6, Part 4, Division of Services for People with Disabilities, will be initiated.

4211 These commitment proceedings must be initiated within seven days after the day on which the
4212 court makes the determination described in Subsection (4)(c), unless the court finds that there

4213 is good cause to delay the initiation of the civil commitment proceedings. The court may order
4214 the defendant to remain in the commitment of the department until the civil commitment
4215 proceedings conclude. If the defendant is civilly committed, the department shall notify the
4216 court that adjudicated the defendant incompetent to proceed at least 10 days before any release
4217 of the committed individual.

4218 (6) If a court, under Subsection (5)(b), extends a defendant's commitment, the court
4219 shall schedule a competency review hearing for the earlier of:

4220 (a) the department's best estimate of when the defendant may be restored to
4221 competency; or

4222 (b) three months after the day on which the court determined under Subsection (5)(b)
4223 to extend the defendant's commitment.

4224 (7) If a defendant is not competent to proceed by the day of the competency review
4225 hearing that follows the extension of a defendant's commitment, a court shall:

4226 (a) except for a defendant charged with crimes listed in Subsection (8), order a
4227 defendant:

4228 (i) released; or

4229 (ii) temporarily detained pending civil commitment proceedings under the same terms
4230 as described in Subsection (5)(c); and

4231 (b) terminate the defendant's commitment to the department for restoration treatment.

4232 (8) If the defendant has been charged with aggravated murder, murder, attempted
4233 murder, manslaughter, or a first degree felony and the court determines that the defendant is
4234 making reasonable progress towards restoration of competency at the time of the hearing held
4235 pursuant to Subsection (6), the court may extend the commitment for a period not to exceed 9
4236 months for the purpose of restoration treatment, with a mandatory review hearing at the end of
4237 the 9-month period.

4238 (9) If at the 9-month review hearing described in Subsection (8), the court determines
4239 that the defendant is not competent to proceed, the court shall:

4240 (a) order the defendant, except for a defendant charged with aggravated murder or
4241 murder, to be:

4242 (i) released; or

4243 (ii) temporarily detained pending civil commitment proceedings under the same terms

4244 as provided in Subsection (5)(c); and

4245 (b) terminate the defendant's commitment to the department for restoration treatment.

4246 (10) If the defendant has been charged with aggravated murder or murder and the court
4247 determines that the defendant is making reasonable progress towards restoration of competency
4248 at the time of the 9-month review hearing described in Subsection (8), the court may extend the
4249 commitment for a period not to exceed 24 months for the purpose of restoration treatment.

4250 (11) If the court extends the defendant's commitment term under Subsection (10), the
4251 court shall hold a hearing no less frequently than at 12-month intervals following the extension
4252 for the purpose of determining the defendant's competency status.

4253 (12) If, at the end of the 24-month commitment period described in Subsection (10),
4254 the court determines that the defendant is not competent to proceed, the court shall:

4255 (a) order the defendant to be:

4256 (i) released; or

4257 (ii) temporarily detained pending civil commitment proceedings under the same terms
4258 as provided in Subsection (5)(c); and

4259 (b) terminate the defendant's commitment to the department for restoration treatment.

4260 (13) Neither release from a pretrial incompetency commitment under the provisions of
4261 this section nor civil commitment requires dismissal of criminal charges. The court may retain
4262 jurisdiction over the criminal case and may order periodic reviews.

4263 (14) A defendant who is civilly committed pursuant to [~~Title 62A, Chapter 5, Services~~
4264 ~~for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health~~
4265 ~~Act]~~ Title 26B, Chapter 5, Health Care -- Substance Use and Mental Health, or Title 26B,
4266 Chapter 6, Part 4, Division of Services for People with Disabilities, may still be adjudicated
4267 competent to stand trial under this chapter.

4268 (15) (a) The remedy for a violation of the time periods specified in this section, other
4269 than those specified in Subsection (5)(c), (7), (9), or (12), shall be a motion to compel the
4270 hearing, or mandamus, but not release from detention or dismissal of the criminal charges.

4271 (b) The remedy for a violation of the time periods specified in Subsection (5)(c), (7),
4272 (9), or (12), or is not dismissal of the criminal charges.

4273 (16) In cases in which the treatment of the defendant is precluded by court order for a
4274 period of time, that time period may not be considered in computing time limitations under this

4275 section.

4276 (17) (a) At any time that the defendant becomes competent to stand trial, the clinical
4277 director of the hospital, the department, or the department's designee shall certify that fact to
4278 the court.

4279 (b) The court shall conduct a competency review hearing:

4280 (i) within 15 working days after the day on which the court receives the certification
4281 described in Subsection (17)(a); or

4282 (ii) within 30 working days after the day on which the court receives the certification
4283 described in Subsection (17)(a), if the court determines that more than 15 days are necessary
4284 for good cause related to the defendant's competency.

4285 (18) The court may order a hearing or rehearing at any time on its own motion or upon
4286 recommendations of the clinical director of the hospital or other facility or the department.

4287 (19) Notice of a hearing on competency to stand trial shall be given to the prosecuting
4288 attorney. If the hearing is held in the county where the defendant is confined, notice shall also
4289 be given to the prosecuting attorney for that county.

4290 Section 66. Section **77-15a-104** is amended to read:

4291 **77-15a-104. Hearing -- Notice -- Stay of proceeding -- Examinations of defendant**
4292 **-- Scope of examination -- Report -- Procedures.**

4293 (1) (a) If a defendant proposes to offer evidence concerning or argue that he qualifies
4294 for an exemption from the death penalty under Subsection **77-15a-101**(1) or (2), the defendant
4295 shall file and serve the prosecuting attorney with written notice of his intention as soon as
4296 practicable, but not fewer than 60 days before trial.

4297 (b) If the defendant wishes to claim the exemption provided in Subsection
4298 **77-15a-101**(2), the defendant shall file and serve the prosecuting attorney with written notice of
4299 his intention as soon as practicable, but not fewer than 60 days before trial.

4300 (2) When notice is given under Subsection (1), the court raises the issue, or a motion is
4301 filed regarding Section **77-15a-101**, the court may stay all proceedings in order to address the
4302 issue.

4303 (3) (a) The court shall order the Department of [~~Human Services~~] Health and Human
4304 Services to appoint at least two mental health experts to examine the defendant and report to
4305 the court. The experts:

- 4306 (i) may not be involved in the current treatment of the defendant; and
- 4307 (ii) shall have expertise in intellectual disability assessment.
- 4308 (b) Upon appointment of the experts, the defendant or other party as directed by the
- 4309 court shall provide information and materials to the examiners relevant to a determination of
- 4310 the defendant's intellectual disability, including copies of the charging document, arrest or
- 4311 incident reports pertaining to the charged offense, known criminal history information, and
- 4312 known prior mental health evaluations and treatments.
- 4313 (c) The court may make the necessary orders to provide the information listed in
- 4314 Subsection (3)(b) to the examiners.
- 4315 (d) The court may provide in its order appointing the examiners that custodians of
- 4316 mental health records pertaining to the defendant shall provide those records to the examiners
- 4317 without the need for consent of the defendant or further order of the court.
- 4318 (e) Prior to examining the defendant, examiners shall specifically advise the defendant
- 4319 of the limits of confidentiality as provided under Section [77-15a-106](#).
- 4320 (4) During any examinations under Subsection (3), unless the court directs otherwise,
- 4321 the defendant shall be retained in the same custody or status he was in at the time the
- 4322 examination was ordered.
- 4323 (5) The experts shall in the conduct of their examinations and in their reports to the
- 4324 court consider and address:
 - 4325 (a) whether the defendant is intellectually disabled as defined in Section [77-15a-102](#);
 - 4326 (b) the degree of any intellectual disability the expert finds to exist;
 - 4327 (c) whether the defendant is intellectually disabled as specified in Subsection
 - 4328 [77-15a-101](#)(2); and
 - 4329 (d) the degree of any intellectual disability the expert finds to exist.
- 4330 (6) (a) The experts examining the defendant shall provide written reports to the court,
- 4331 the prosecution, and the defense within 60 days of the receipt of the court's order, unless the
- 4332 expert submits to the court a written request for additional time in accordance with Subsection
- 4333 (6)(c).
- 4334 (b) The reports shall provide to the court and to prosecution and defense counsel the
- 4335 examiners' written opinions concerning the intellectual disability of the defendant.
- 4336 (c) If an examiner requests of the court additional time, the examiner shall provide the

4337 report to the court and counsel within 90 days from the receipt of the court's order unless, for
4338 good cause shown, the court authorizes an additional period of time to complete the
4339 examination and provide the report.

4340 (7) Any written report submitted by an expert shall:

4341 (a) identify the specific matters referred for evaluation;

4342 (b) describe the procedures, techniques, and tests used in the examination and the
4343 purpose or purposes for each;

4344 (c) state the expert's clinical observations, findings, and opinions; and

4345 (d) identify the sources of information used by the expert and present the basis for the
4346 expert's clinical findings and opinions.

4347 (8) Within 30 days after receipt of the report from the Department of [~~Human Services~~]
4348 Health and Human Services, but not later than five days before hearing, or at any other time the
4349 court directs, the prosecuting attorney shall file and serve upon the defendant a notice of
4350 witnesses the prosecuting attorney proposes to call in rebuttal.

4351 (9) (a) Except pursuant to Section 77-15a-105, this chapter does not prevent any party
4352 from producing any other testimony as to the mental condition of the defendant.

4353 (b) Expert witnesses who are not appointed by the court are not entitled to
4354 compensation under Subsection (10).

4355 (10) (a) Expenses of examinations of the defendant ordered by the court under this
4356 section shall be paid by the Department of [~~Human Services~~] Health and Human Services.

4357 (b) Travel expenses associated with any court-ordered examination that are incurred by
4358 the defendant shall be charged by the Department of [~~Human Services~~] Health and Human
4359 Services to the county where prosecution is commenced.

4360 (11) (a) When the report is received, the court shall set a date for a hearing to
4361 determine if the exemption under Section 77-15a-101 applies. The hearing shall be held and
4362 the judge shall make the determination within a reasonable time prior to jury selection.

4363 (b) Prosecution and defense counsel may subpoena to testify at the hearing any person
4364 or organization appointed by the Department of [~~Human Services~~] Health and Human Services
4365 to conduct the examination and any independent examiner.

4366 (c) The court may call any examiner to testify at the hearing who is not called by the
4367 parties. If the court calls an examiner, counsel for the parties may cross-examine that

4368 examiner.

4369 (12) (a) A defendant is presumed not to be intellectually disabled unless the court, by a
4370 preponderance of the evidence, finds the defendant to be intellectually disabled. The burden of
4371 proof is upon the proponent of intellectual disability at the hearing.

4372 (b) A finding of intellectual disability does not operate as an adjudication of
4373 intellectual disability for any purpose other than exempting the person from a sentence of death
4374 in the case before the court.

4375 (13) (a) The defendant is presumed not to possess the mental deficiencies listed in
4376 Subsection 77-15a-101(2) unless the court, by a preponderance of the evidence, finds that the
4377 defendant has significant subaverage general intellectual functioning that exists concurrently
4378 with significant deficiencies in adaptive functioning and that this functioning was manifested
4379 prior to age 22. The burden of proof is upon the proponent of that proposition.

4380 (b) If the court finds by a preponderance of the evidence that the defendant has
4381 significant subaverage general intellectual functioning that exists concurrently with significant
4382 deficiencies in adaptive functioning and that this functioning was manifested prior to age 22,
4383 then the burden is upon the state to establish that any confession by the defendant which the
4384 state intends to introduce into evidence is supported by substantial evidence independent of the
4385 confession.

4386 (14) (a) If the court finds the defendant intellectually disabled, it shall issue an order:

4387 (i) containing findings of fact and conclusions of law, and addressing each of the
4388 factors in Subsections (5)(a) and (b); and

4389 (ii) stating that the death penalty is not a sentencing option in the case before the court.

4390 (b) If the court finds by a preponderance of the evidence that the defendant possesses
4391 the mental deficiencies listed in Subsection 77-15a-101(2) and that the state fails to establish
4392 that any confession is supported by substantial evidence independent of the confession, the
4393 state may proceed with its case and:

4394 (i) introduce the confession into evidence, and the death penalty will not be a
4395 sentencing option in the case; or

4396 (ii) not introduce into evidence any confession or the fruits of a confession that the
4397 court has found is not supported by substantial evidence independent of the confession, and the
4398 death penalty will be a sentencing option in the case.

4399 (c) (i) A finding by the court regarding whether the defendant qualifies for an
4400 exemption under Section 77-15a-101 is a final determination of that issue for purposes of this
4401 chapter.

4402 (ii) The following questions may not be submitted to the jury by instruction, special
4403 verdict, argument, or other means:

4404 (A) whether the defendant is intellectually disabled for purposes of this chapter; and

4405 (B) whether the defendant possesses the mental deficiencies specified in Subsection
4406 77-15a-101(2).

4407 (iii) This chapter does not prevent the defendant from submitting evidence of
4408 intellectual disability or other mental deficiency to establish a mental condition as a mitigating
4409 circumstance under Section 76-3-207.

4410 (15) A ruling by the court that the defendant is exempt from the death penalty may be
4411 appealed by the state pursuant to Section 77-18a-1.

4412 (16) Failure to comply with this section does not result in the dismissal of criminal
4413 charges.

4414 Section 67. Section 77-15a-105 is amended to read:

4415 **77-15a-105. Defendant's wilful failure to cooperate -- Expert testimony regarding**
4416 **intellectual disability is barred.**

4417 (1) If the defendant files notice, raises the issue, or intends to present evidence or make
4418 an argument that the defendant is exempt from the death penalty under this chapter, the
4419 defendant shall make himself available and fully cooperate in any examination by mental
4420 health experts appointed by the Department of [~~Human Services~~] Health and Human Services
4421 and any other independent examiners for the defense or the prosecution.

4422 (2) If the defendant wilfully fails to make himself available and fully cooperate in the
4423 examination, and that failure is established to the satisfaction of the court, the defendant is
4424 barred from presenting expert testimony relating to any exemption from the death penalty
4425 under this chapter.

4426 Section 68. Section 77-16a-101 is amended to read:

4427 **77-16a-101. Definitions.**

4428 As used in this chapter:

4429 (1) "Board" means the Board of Pardons and Parole established under Section 77-27-2.

4430 (2) "Department" means the Department of [~~Human Services~~] Health and Human
4431 Services.

4432 (3) "Executive director" means the executive director of the Department of [~~Human~~
4433 ~~Services~~] Health and Human Services.

4434 (4) "Mental health facility" means the Utah State Hospital or other facility that
4435 provides mental health services under contract with the division, a local mental health
4436 authority, or organization that contracts with a local mental health authority.

4437 (5) "Mental illness" is as defined in Section [76-2-305](#).

4438 (6) "Offender with a mental illness" means an individual who has been adjudicated
4439 guilty with a mental illness, including an individual who has an intellectual disability.

4440 (7) "UDC" means the Department of Corrections.

4441 Section 69. Section **77-16a-202** is amended to read:

4442 **77-16a-202. Person found guilty with a mental illness -- Commitment to**
4443 **department -- Admission to Utah State Hospital.**

4444 (1) In sentencing and committing an offender with a mental illness to the department
4445 under Subsection [77-16a-104](#)(3)(a), the court shall:

4446 (a) sentence the offender to a term of imprisonment and order that he be committed to
4447 the department and admitted to the Utah State Hospital for care and treatment until transferred
4448 to UDC in accordance with Sections [77-16a-203](#) and [77-16a-204](#), making provision for
4449 readmission to the Utah State Hospital whenever the requirements and conditions of Section
4450 [77-16a-204](#) are met; or

4451 (b) sentence the offender to a term of imprisonment and order that the offender be
4452 committed to the department for care and treatment for no more than 18 months, or until the
4453 offender's condition has been stabilized to the point that commitment to the department and
4454 admission to the Utah State Hospital is no longer necessary to ensure adequate mental health
4455 treatment, whichever occurs first. At the expiration of that time, the court may recall the
4456 sentence and commitment, and resentence the offender. A commitment and retention of
4457 jurisdiction under this Subsection (1)(b) shall be specified in the sentencing order. If that
4458 specification is not included in the sentencing order, the offender shall be committed in
4459 accordance with Subsection (1)(a).

4460 (2) The court may not retain jurisdiction, under Subsection (1)(b), over the sentence of

4461 an offender with a mental illness who has been convicted of a capital felony. In capital cases,
4462 the court shall make the findings required by this section after the capital sentencing
4463 proceeding mandated by Section [76-3-207](#).

4464 (3) When an offender is committed to the department and admitted to the Utah State
4465 Hospital under Subsection (1)(b), the department shall provide the court with reports of the
4466 offender's mental health status every six months. Those reports shall be prepared in accordance
4467 with the requirements of Section [77-16a-203](#). Additionally, the court may appoint an
4468 independent examiner to assess the mental health status of the offender.

4469 (4) The period of commitment to the department and admission to the Utah State
4470 Hospital, and any subsequent retransfers to the Utah State Hospital made pursuant to Section
4471 [77-16a-204](#) may not exceed the maximum sentence imposed by the court. Upon expiration of
4472 that sentence, the administrator of the facility where the offender is located may initiate civil
4473 proceedings for involuntary commitment in accordance with [~~Title 62A, Chapter 5, Services~~
4474 ~~for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health~~
4475 ~~Act]~~ Title 26B, Chapter 5, Health Care -- Substance Use and Mental Health, or Title 26B,
4476 Chapter 6, Part 4, Division of Services for People with Disabilities.

4477 Section 70. Section [77-16a-203](#) is amended to read:

4478 **[77-16a-203. Review of offenders with a mental illness committed to department --](#)**
4479 **[Recommendations for transfer to Department of Corrections.](#)**

4480 (1) (a) The executive director shall designate a review team of at least three qualified
4481 staff members, including at least one licensed psychiatrist, to evaluate the mental condition of
4482 each offender with a mental illness committed to it in accordance with Section [77-16a-202](#), at
4483 least once every six months.

4484 (b) If the offender has an intellectual disability, the review team shall include at least
4485 one individual who is a designated intellectual disability professional, as defined in Section
4486 [~~62A-5-101~~] [26B-6-401](#).

4487 (2) At the conclusion of its evaluation, the review team described in Subsection (1)
4488 shall make a report to the executive director:

4489 (a) regarding the offender's:

4490 (i) current mental condition;

4491 (ii) progress since commitment; and

4492 (iii) prognosis; and

4493 (b) that includes a recommendation regarding whether the offender with a mental
4494 illness should be:

4495 (i) transferred to UDC; or

4496 (ii) remain in the custody of the department.

4497 (3) (a) The executive director shall notify the UDC medical administrator and the
4498 board's mental health adviser that an offender with a mental illness is eligible for transfer to
4499 UDC if the review team finds that the offender:

4500 (i) no longer has a mental illness; or

4501 (ii) has a mental illness and may continue to be a danger to self or others, but can be
4502 controlled if adequate care, medication, and treatment are provided by UDC; and

4503 (iii) the offender's condition has been stabilized to the point that commitment to the
4504 department and admission to the Utah State Hospital are no longer necessary to ensure
4505 adequate mental health treatment.

4506 (b) The administrator of the mental health facility where the offender is located shall
4507 provide the UDC medical administrator with a copy of the reviewing staff's recommendation
4508 and:

4509 (i) all available clinical facts;

4510 (ii) the diagnosis;

4511 (iii) the course of treatment received at the mental health facility;

4512 (iv) the prognosis for remission of symptoms;

4513 (v) the potential for recidivism;

4514 (vi) an estimation of the offender's dangerousness, either to self or others; and

4515 (vii) recommendations for future treatment.

4516 Section 71. Section **77-16a-204** is amended to read:

4517 **77-16a-204. UDC acceptance of transfer of persons found guilty with a mental**
4518 **illness -- Retransfer from UDC to department for admission to the Utah State Hospital.**

4519 (1) The UDC medical administrator shall designate a transfer team of at least three
4520 qualified staff members, including at least one licensed psychiatrist, to evaluate the
4521 recommendation made by the department's review team pursuant to Section [77-16a-203](#). If the
4522 offender has an intellectual disability, the transfer team shall include at least one person who

4523 has expertise in testing and diagnosis of people with intellectual disabilities.

4524 (2) The transfer team shall concur in the recommendation if the transfer team
4525 determines that UDC can provide the offender with a mental illness with adequate mental
4526 health treatment.

4527 (3) The UDC transfer team and medical administrator shall recommend the facility in
4528 which the offender should be placed and the treatment to be provided in order for the offender's
4529 mental condition to remain stabilized to the director of the Division of Institutional Operations,
4530 within the Department of Corrections.

4531 (4) In the event that the department and UDC do not agree on the transfer of an
4532 offender with a mental illness, the administrator of the mental health facility where the offender
4533 is located shall notify the mental health adviser for the board, in writing, of the dispute. The
4534 mental health adviser shall be provided with copies of all reports and recommendations. The
4535 board's mental health adviser shall make a recommendation to the board on the transfer and the
4536 board shall issue its decision within 30 days.

4537 (5) UDC shall notify the board whenever an offender with a mental illness is
4538 transferred from the department to UDC.

4539 (6) When an offender with a mental illness sentenced under Section [77-16a-202](#), who
4540 has been transferred from the department to UDC, and accepted by UDC, is evaluated and it is
4541 determined that the offender's mental condition has deteriorated or that the offender has
4542 become mentally unstable, the offender may be readmitted to the Utah State Hospital in
4543 accordance with the findings and procedures described in Section [[62A-15-605.5](#)] [26B-5-372](#).

4544 (7) Any person readmitted to the Utah State Hospital pursuant to Subsection (6) shall
4545 remain in the custody of UDC, and the state hospital shall act solely as the agent of UDC.

4546 (8) An offender with a mental illness who has been readmitted to the Utah State
4547 Hospital pursuant to Subsection (6) shall be transferred back to UDC in accordance with the
4548 provisions of Section [77-16a-203](#).

4549 Section 72. Section [77-16a-302](#) is amended to read:

4550 **77-16a-302. Persons found not guilty by reason of insanity -- Disposition.**

4551 (1) Upon a verdict of not guilty by reason of insanity, the court shall conduct a hearing
4552 within 10 days to determine whether the defendant currently has a mental illness. The defense
4553 counsel and prosecutors may request further evaluations and present testimony from those

4554 examiners.

4555 (2) After the hearing and upon consideration of the record, the court shall order the
4556 defendant committed to the department if it finds by clear and convincing evidence that:

4557 (a) the defendant has a mental illness; and

4558 (b) because of that mental illness the defendant presents a substantial danger to self or
4559 others.

4560 (3) The period of commitment described in Subsection (2) may not exceed the period
4561 for which the defendant could be incarcerated had the defendant been convicted and received
4562 the maximum sentence for the crime of which the defendant was accused. At the time that
4563 period expires, involuntary civil commitment proceedings may be instituted in accordance with
4564 [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health
4565 Care -- Substance Use and Mental Health.

4566 Section 73. Section **77-18-102** is amended to read:

4567 **77-18-102. Definitions.**

4568 As used in this chapter:

4569 (1) "Assessment" means, except as provided in Section 77-18-104, the same as the
4570 term "risk and needs assessment" in Section 77-1-3.

4571 (2) "Board" means the Board of Pardons and Parole.

4572 (3) "Civil accounts receivable" means the same as that term is defined in Section
4573 77-32b-102.

4574 (4) "Civil judgment of restitution" means the same as that term is defined in Section
4575 77-32b-102.

4576 (5) "Convicted" means the same as that term is defined in Section 76-3-201.

4577 (6) "Criminal accounts receivable" means the same as that term is defined in Section
4578 77-32b-102.

4579 (7) "Default" means the same as that term is defined in Section 77-32b-102.

4580 (8) "Delinquent" means the same as that term is defined in Section 77-32b-102.

4581 (9) "Department" means the Department of Corrections created in Section 64-13-2.

4582 (10) "Payment schedule" means the same as that term is defined in Section
4583 77-32b-102.

4584 (11) "Restitution" means the same as that term is defined in Section 77-38b-102.

4585 (12) "Screening" means, except as provided in Section 77-18-104, a tool or
4586 questionnaire that is designed to determine whether an individual needs further assessment or
4587 any additional resource or referral for treatment.

4588 (13) "Substance use disorder treatment" means treatment obtained through a substance
4589 use disorder program that is licensed by the Office of Licensing within the Department of
4590 ~~[Human Services]~~ Health and Human Services.

4591 Section 74. Section 77-18-106 is amended to read:

4592 **77-18-106. Treatment at the Utah State Hospital -- Condition of probation or stay**
4593 **of sentence.**

4594 The court may order as a condition of probation, or a stay of sentence, that the
4595 defendant be voluntarily admitted to the custody of the Division of Substance Abuse and
4596 Mental Health for treatment at the Utah State Hospital only if the superintendent of the Utah
4597 State Hospital, or the superintendent's designee, certifies to the court that:

4598 (1) the defendant is appropriate for, and can benefit from, treatment at the Utah State
4599 Hospital;

4600 (2) there is space at the Utah State Hospital for treatment of the defendant; and

4601 (3) individuals described in Subsection ~~[62A-15-610(2)(g)]~~ 26B-5-306(2)(g) are
4602 receiving priority for treatment over the defendant.

4603 Section 75. Section 77-19-204 is amended to read:

4604 **77-19-204. Order for hearing -- Examinations of inmate -- Scope of examination**
4605 **and report.**

4606 (1) When a court has good reason to believe an inmate sentenced to death is
4607 incompetent to be executed, it shall stay the execution and shall order the Department of
4608 ~~[Human Services]~~ Health and Human Services to examine the inmate and report to the court
4609 concerning the inmate's mental condition.

4610 (2) (a) The inmate subject to examination under Subsection (1) shall be examined by at
4611 least two mental health experts who are not involved in the inmate's current treatment.

4612 (b) The Department of Corrections shall provide information and materials to the
4613 examiners relevant to a determination of the inmate's competency to be executed.

4614 (3) The inmate shall make himself available and fully cooperate in the examination by
4615 the Department of ~~[Human Services]~~ Health and Human Services and any other independent

4616 examiners for the defense or the state.

4617 (4) The examiners shall in the conduct of their examinations and in their reports to the
4618 court consider and address, in addition to any other factors determined to be relevant by the
4619 examiners:

4620 (a) the inmate's awareness of the fact of the inmate's impending execution;

4621 (b) the inmate's understanding that the inmate is to be executed for the crime of
4622 murder;

4623 (c) the nature of the inmate's mental disorder, if any, and its relationship to the factors
4624 relevant to the inmate's competency; and

4625 (d) whether psychoactive medication is necessary to maintain or restore the inmate's
4626 competency.

4627 (5) The examiners who are examining the inmate shall each provide an initial report to
4628 the court and the attorneys for the state and the inmate within 60 days of the receipt of the
4629 court's order. The report shall inform the court of the examiner's opinion concerning the
4630 competency of the inmate to be executed, or, in the alternative, the examiner may inform the
4631 court in writing that additional time is needed to complete the report. If the examiner informs
4632 the court that additional time is needed, the examiner shall have up to an additional 30 days to
4633 provide the report to the court and counsel. The examiner shall provide the report within 90
4634 days from the receipt of the court's order unless, for good cause shown, the court authorizes an
4635 additional period of time to complete the examination and provide the report.

4636 (6) (a) All interviews with the inmate conducted by the examiners shall be videotaped,
4637 unless otherwise ordered by the court for good cause shown. The Department of Corrections
4638 shall provide the videotaping equipment and facilitate the videotaping of the interviews.

4639 (b) Immediately following the videotaping, the videotape shall be provided to the
4640 attorney for the state, who shall deliver it as soon as practicable to the judge in whose court the
4641 competency determination is pending.

4642 (c) The court shall grant counsel for the state and for the inmate, and examiners who
4643 are examining the inmate under this part access to view the videotape at the court building
4644 where the court is located that is conducting the competency determination under this part.

4645 (7) Any written report submitted by an examiner shall:

4646 (a) identify the specific matters referred for evaluation;

4647 (b) describe the procedures, techniques, and tests used in the examination and the
4648 purpose or purposes for each;

4649 (c) state the examiner's clinical observations, findings, and opinions on each issue
4650 referred for examination by the court, and indicate specifically those issues, if any, on which
4651 the examiner could not give an opinion; and

4652 (d) identify the sources of information used by the examiner and present the basis for
4653 the examiner's clinical findings and opinions.

4654 (8) (a) When the reports are received, the court shall set a date for a competency
4655 hearing, which shall be held within not less than five and not more than 15 days, unless the
4656 court extends the time for good cause.

4657 (b) Any examiner directed by the Department of [~~Human Services~~] Health and Human
4658 Services to conduct the examination may be subpoenaed to provide testimony at the hearing. If
4659 the examiners are in conflict as to the competency of the inmate, all of them should be called to
4660 testify at the hearing if they are reasonably available.

4661 (c) The court may call any examiner to testify at the hearing who is not called by the
4662 parties. An examiner called by the court may be cross-examined by counsel for the parties.

4663 (9) (a) An inmate shall be presumed competent to be executed unless the court, by a
4664 preponderance of the evidence, finds the inmate incompetent to be executed. The burden of
4665 proof is upon the proponent of incompetency at the hearing.

4666 (b) An adjudication of incompetency to be executed does not operate as an
4667 adjudication of the inmate's incompetency to give informed consent for medical treatment or
4668 for any other purpose, unless specifically set forth in the court order.

4669 (10) (a) If the court finds the inmate incompetent to be executed, its order shall contain
4670 findings addressing each of the factors in Subsections (4)(a) through (d).

4671 (b) The order finding the inmate incompetent to be executed shall be delivered to the
4672 Department of [~~Human Services~~] Health and Human Services, and shall be accompanied by:

4673 (i) copies of the reports of the examiners filed with the court pursuant to the order of
4674 examination, if not provided previously;

4675 (ii) copies of any of the psychiatric, psychological, or social work reports submitted to
4676 the court relative to the mental condition of the inmate; and

4677 (iii) any other documents made available to the court by either the defense or the state,

4678 pertaining to the inmate's current or past mental condition.

4679 (c) A copy of the order finding the inmate incompetent to be executed shall be
4680 delivered to the Department of Corrections.

4681 Section 76. Section **77-19-205** is amended to read:

4682 **77-19-205. Procedures on finding of incompetency to be executed -- Subsequent**
4683 **hearings -- Notice to attorneys.**

4684 (1) (a) (i) If after the hearing under Section 77-19-204 the inmate is found to be
4685 incompetent to be executed, the court shall continue the stay of execution and the inmate shall
4686 receive appropriate mental health treatment.

4687 (ii) Appropriate mental health treatment under Subsection (1)(a)(i) does not include the
4688 forcible administration of psychoactive medication for the sole purpose of restoring the
4689 inmate's competency to be executed.

4690 (b) The court shall order the executive director of the Department of [~~Human Services~~]
4691 Health and Human Services to provide periodic assessments to the court regarding the inmate's
4692 competency to be executed.

4693 (c) The inmate shall be held in secure confinement, either at the prison or the State
4694 Hospital, as agreed upon by the executive director of the Department of Corrections and the
4695 executive director of the Department of [~~Human Services~~] Health and Human Services. If the
4696 inmate remains at the prison, the Department of [~~Human Services~~] Health and Human Services
4697 shall consult with the Department of Corrections regarding the inmate's mental health
4698 treatment.

4699 (2) (a) The examiner or examiners designated by the executive director of the
4700 Department of [~~Human Services~~] Health and Human Services to assess the inmate's progress
4701 toward competency may not be involved in the routine treatment of the inmate.

4702 (b) The examiner or examiners shall each provide a full report to the court and counsel
4703 for the state and the inmate within 90 days of receipt of the court's order. If any examiner is
4704 unable to complete the assessment within 90 days, that examiner shall provide to the court and
4705 counsel for the state and the inmate a summary progress report which informs the court that
4706 additional time is necessary to complete the assessment, in which case the examiner has up to
4707 an additional 90 days to provide the full report, unless the court enlarges the time for good
4708 cause. The full report shall assess:

4709 (i) the facility's or program's capacity to provide appropriate treatment for the inmate;
4710 (ii) the nature of treatments provided to the inmate;
4711 (iii) what progress toward restoration of competency has been made;
4712 (iv) the inmate's current level of mental disorder and need for treatment, if any; and
4713 (v) the likelihood of restoration of competency and the amount of time estimated to
4714 achieve it.

4715 (3) The court on its own motion or upon motion by either party may order the
4716 Department of [~~Human Services~~] Health and Human Services to appoint additional mental
4717 health examiners to examine the inmate and advise the court on the inmate's current mental
4718 status and progress toward competency restoration.

4719 (4) (a) Upon receipt of the full report, the court shall hold a hearing to determine the
4720 inmate's current status. At the hearing, the burden of proving that the inmate is competent is on
4721 the proponent of competency.

4722 (b) Following the hearing, the court shall determine by a preponderance of evidence
4723 whether the inmate is competent to be executed.

4724 (5) (a) If the court determines that the inmate is competent to be executed, it shall enter
4725 findings and shall proceed under Subsection [77-19-202\(2\)\(c\)](#).

4726 (b) (i) If the court determines the inmate is still incompetent to be executed, the inmate
4727 shall continue to receive appropriate mental health treatment, and the court shall hold hearings
4728 no less frequently than at 18-month intervals for the purpose of determining the defendant's
4729 competency to be executed.

4730 (ii) Continued appropriate mental health treatment under Subsection (1)(a)(i) does not
4731 include the forcible administration of psychoactive medication for the sole purpose of restoring
4732 the inmate's competency to be executed.

4733 (6) (a) If at any time the clinical director of the Utah State Hospital or the primary
4734 treating mental health professional determines that the inmate has been restored to competency,
4735 he shall notify the court.

4736 (b) The court shall conduct a hearing regarding the inmate's competency to be executed
4737 within 30 working days of the receipt of the notification under Subsection (6)(a), unless the
4738 court extends the time for good cause. The court may order a hearing or rehearing at any time
4739 on its own motion.

4740 (7) Notice of a hearing on competency to be executed shall be given to counsel for the
4741 state and for the inmate, as well as to the office of the prosecutor who prosecuted the inmate on
4742 the original capital charge.

4743 Section 77. Section **77-19-206** is amended to read:

4744 **77-19-206. Expenses -- Allocation.**

4745 The Department of [~~Human Services~~] Health and Human Services and the Department
4746 of Corrections shall each pay 1/2 of the costs of any examination of the inmate conducted
4747 pursuant to Sections **77-19-204** and **77-19-205** to determine if an inmate is competent to be
4748 executed.

4749 Section 78. Section **77-23-213** is amended to read:

4750 **77-23-213. Blood testing.**

4751 (1) As used in this section:

4752 (a) "Law enforcement purpose" means duties that consist primarily of the prevention
4753 and detection of crime and the enforcement of criminal statutes or ordinances of this state or
4754 any of this state's political subdivisions.

4755 (b) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace
4756 Officer Classifications.

4757 (2) A peace officer may require an individual to submit to a blood test for a law
4758 enforcement purpose only if:

4759 (a) the individual or legal representative of the individual with authority to give
4760 consent gives oral or written consent to the blood test;

4761 (b) the peace officer obtains a warrant to administer the blood test; or

4762 (c) a judicially recognized exception to obtaining a warrant exists as established by the
4763 Utah Court of Appeals, Utah Supreme Court, Court of Appeals of the Tenth Circuit, or the
4764 Supreme Court of the United States.

4765 (3) (a) Only the following, acting at the request of a peace officer, may draw blood to
4766 determine the blood's alcohol or drug content:

4767 (i) a physician;

4768 (ii) a physician assistant;

4769 (iii) a registered nurse;

4770 (iv) a licensed practical nurse;

- 4771 (v) a paramedic;
- 4772 (vi) as provided in Subsection (3)(b), emergency medical service personnel other than a
4773 paramedic; or
- 4774 (vii) a person with a valid permit issued by the Department of [~~Health~~] Health and
4775 Human Services under Section [~~26-1-30~~] 26B-1-202.
- 4776 (b) The Department of [~~Health~~] Health and Human Services may designate by rule, in
4777 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency
4778 medical service personnel, as defined in Section [~~26-8a-102~~] 26B-4-101, are authorized to
4779 draw blood under Subsection (3)(a)(vi), based on the type of license under Section [~~26-8a-302~~]
4780 26B-4-116.
- 4781 (c) The following are immune from civil or criminal liability arising from drawing a
4782 blood sample from a person who a peace officer requests, for law enforcement purposes, if the
4783 sample is drawn in accordance with standard medical practice:
- 4784 (i) a person authorized to draw blood under Subsection (3)(a); and
- 4785 (ii) if the blood is drawn at a hospital or other medical facility, the medical facility.
- 4786 Section 79. Section **77-32b-103** is amended to read:
- 4787 **77-32b-103. Establishment of a criminal accounts receivable -- Responsibility --**
4788 **Payment schedule -- Delinquency or default.**
- 4789 (1) (a) Except as provided in Subsection (1)(b) and (c), at the time of sentencing or
4790 acceptance of a plea in abeyance, the court shall enter an order to establish a criminal accounts
4791 receivable for the defendant.
- 4792 (b) The court is not required to create a criminal accounts receivable for the defendant
4793 under Subsection (1)(a) if the court finds that the defendant does not owe restitution and there
4794 are no other fines or fees to be assessed against the defendant.
- 4795 (c) Subject to Subsection 77-38b-205(5), if the court does not create a criminal
4796 accounts receivable for a defendant under Subsection (1)(a), the court shall enter an order to
4797 establish a criminal accounts receivable for the defendant at the time the court enters an order
4798 for restitution under Section 77-38b-205.
- 4799 (2) After establishing a criminal accounts receivable for a defendant, the court shall:
- 4800 (a) if a prison sentence is imposed and not suspended for the defendant:
- 4801 (i) accept any payment for the criminal accounts receivable that is tendered on the date

4802 of sentencing; and

4803 (ii) transfer the responsibility of receiving, distributing, and processing payments for
4804 the criminal accounts receivable to the Office of State Debt Collection; and

4805 (b) for all other cases:

4806 (i) retain the responsibility for receiving, processing, and distributing payments for the
4807 criminal accounts receivable until the court enters a civil accounts receivable or civil judgment
4808 of restitution on the civil judgment docket under Subsection 77-18-114(1) or (2); and

4809 (ii) record each payment by the defendant on the case docket.

4810 (c) For a criminal accounts receivable that a court retains responsibility for receiving,
4811 processing, and distributing payments under Subsection (2)(b)(i), the Judicial Council may
4812 establish rules to require a defendant to pay the cost, or a portion of the cost, for an electronic
4813 payment fee that is charged by a financial institution for the use of a credit or debit card to
4814 make payments towards the criminal accounts receivable.

4815 (3) (a) Upon entering an order for a criminal accounts receivable, the court shall
4816 establish a payment schedule for the defendant to make payments towards the criminal
4817 accounts receivable.

4818 (b) In establishing the payment schedule for the defendant, the court shall consider:

4819 (i) the needs of the victim if the criminal accounts receivable includes an order for
4820 restitution under Section 77-38b-205;

4821 (ii) the financial resources of the defendant, as disclosed in the financial declaration
4822 under Section 77-38b-204 or in evidence obtained by subpoena under Subsection
4823 77-38b-402(1)(b);

4824 (iii) the burden that the payment schedule will impose on the defendant regarding the
4825 other reasonable obligations of the defendant;

4826 (iv) the ability of the defendant to pay restitution on an installment basis or on other
4827 conditions fixed by the court;

4828 (v) the rehabilitative effect on the defendant of the payment of restitution and method
4829 of payment; and

4830 (vi) any other circumstance that the court determines is relevant.

4831 (4) A payment schedule for a criminal accounts receivable does not limit the ability of
4832 a judgment creditor to pursue collection by any means allowable by law.

4833 (5) If the court orders restitution under Section [77-38b-205](#), or makes another financial
4834 decision, after sentencing that increases the total amount owed in a defendant's case, the
4835 defendant's criminal accounts receivable balance shall be adjusted to include any new amount
4836 ordered by the court.

4837 (6) (a) If a defendant is incarcerated in a county jail or a secure correctional facility, as
4838 defined in Section [64-13-1](#), or the defendant is involuntarily committed under Section
4839 [~~62A-15-631~~] [26B-5-332](#):

4840 (i) all payments for a payment schedule shall be suspended for the period of time that
4841 the defendant is incarcerated or involuntarily committed, unless the court, or the board if the
4842 defendant is under the jurisdiction of the board, expressly orders the defendant to make
4843 payments according to the payment schedule; and

4844 (ii) the defendant shall provide the court with notice of the incarceration or involuntary
4845 commitment.

4846 (b) A suspension under Subsection (6)(a) shall remain in place for 60 days after the day
4847 in which the defendant is released from incarceration or commitment.

4848 Section 80. Section **77-40a-305** is amended to read:

4849 **77-40a-305. Petition for expungement -- Prosecutorial responsibility -- Hearing.**

4850 (1) (a) The petitioner shall file a petition for expungement, in accordance with the Utah
4851 Rules of Criminal Procedure, that includes the identification number for the certificate of
4852 eligibility described in Subsection [77-40a-304\(1\)\(d\)\(ii\)](#).

4853 (b) Information on a certificate of eligibility is incorporated into a petition by reference
4854 to the identification number for the certificate of eligibility.

4855 (2) (a) If a petition for expungement is filed under Subsection (1)(a), the court shall
4856 obtain a certificate of eligibility from the bureau.

4857 (b) A court may not accept a petition for expungement if the certificate of eligibility is
4858 no longer valid as described in Subsection [77-40a-304\(1\)\(d\)\(i\)](#).

4859 (3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement
4860 of a traffic conviction without obtaining a certificate of eligibility if:

4861 (a) (i) for a class C misdemeanor or infraction, at least three years have elapsed from
4862 the day on which the petitioner was convicted; or

4863 (ii) for a class B misdemeanor, at least four years have elapsed from the day on which

4864 the petitioner was convicted; and

4865 (b) all convictions in the case for the traffic conviction are for traffic offenses.

4866 (4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of
4867 a record for a conviction related to cannabis possession without a certificate of eligibility if the
4868 petition demonstrates that:

4869 (a) the petitioner had, at the time of the relevant arrest or citation leading to the
4870 conviction, a qualifying condition, as that term is defined in Section [~~26-61a-102~~] 26B-4-201;
4871 and

4872 (b) the possession of cannabis in question was in a form and an amount to medicinally
4873 treat the qualifying condition described in Subsection (4)(a).

4874 (5) (a) The court shall provide notice of a filing of a petition and certificate of
4875 eligibility to the prosecutorial office that handled the court proceedings within three days after
4876 the day on which the petitioner's filing fee is paid or waived.

4877 (b) If there were no court proceedings, the court shall provide notice of a filing of a
4878 petition and certificate of eligibility to the county attorney's office in the jurisdiction where the
4879 arrest occurred.

4880 (c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention,
4881 or conviction, was a city attorney's office, the county attorney's office in the jurisdiction where
4882 the arrest occurred shall immediately notify the city attorney's office that the county attorney's
4883 office has received a notice of a filing of a petition for expungement.

4884 (6) (a) Upon receipt of a notice of a filing of a petition for expungement of a conviction
4885 or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall
4886 make a reasonable effort to provide notice to any victim of the conviction or charge.

4887 (b) The notice under Subsection (6)(a) shall:

4888 (i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable
4889 to the petition;

4890 (ii) state that the victim has a right to object to the expungement; and

4891 (iii) provide instructions for registering an objection with the court.

4892 (7) The prosecuting attorney and the victim, if applicable, may respond to the petition
4893 by filing a recommendation or objection with the court within 35 days after the day on which
4894 the notice of the filing of the petition is sent by the court to the prosecuting attorney.

4895 (8) (a) The court may request a written response to the petition from the Division of
4896 Adult Probation and Parole within the Department of Corrections.

4897 (b) If requested, the response prepared by the Division of Adult Probation and Parole
4898 shall include:

4899 (i) the reasons probation was terminated; and

4900 (ii) certification that the petitioner has completed all requirements of sentencing and
4901 probation or parole.

4902 (c) The Division of Adult Probation and Parole shall provide a copy of the response to
4903 the petitioner and the prosecuting attorney.

4904 (9) The petitioner may respond in writing to any objections filed by the prosecuting
4905 attorney or the victim and the response prepared by the Division of Adult Probation and Parole
4906 within 14 days after the day on which the objection or response is received.

4907 (10) (a) If the court receives an objection concerning the petition from any party, the
4908 court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the
4909 date set for the hearing.

4910 (b) The prosecuting attorney shall notify the victim of the date set for the hearing.

4911 (c) The petitioner, the prosecuting attorney, the victim, and any other person who has
4912 relevant information about the petitioner may testify at the hearing.

4913 (d) The court shall review the petition, the certificate of eligibility, and any written
4914 responses submitted regarding the petition.

4915 (11) If no objection is received within 60 days from the day on which the petition for
4916 expungement is filed with the court, the expungement may be granted without a hearing.

4917 Section 81. Section **77-40a-306** is amended to read:

4918 **77-40a-306. Order of expungement.**

4919 (1) If a petition is filed in accordance with Section [77-40a-305](#), the court shall issue an
4920 order of expungement if the court finds, by clear and convincing evidence, that:

4921 (a) except as provided in Subsection [77-40a-305](#)(3) or (4), the petition and certificate
4922 of eligibility are sufficient;

4923 (b) the statutory requirements have been met;

4924 (c) if the petitioner seeks expungement after a case is dismissed without prejudice or
4925 without condition, the prosecuting attorney provided written consent and has not filed and does

4926 not intend to refile related charges;

4927 (d) if the petitioner seeks expungement without a certificate of eligibility for
4928 expungement under Subsection 77-40a-305(4) for a record of conviction related to cannabis
4929 possession:

4930 (i) the petitioner had, at the time of the relevant arrest or citation leading to the
4931 conviction, a qualifying condition, as that term is defined in Section [~~26-61a-102~~] 26B-4-201;
4932 and

4933 (ii) the possession of cannabis in question was in a form and an amount to medicinally
4934 treat the qualifying condition described in Subsection (1)(d)(i);

4935 (e) if an objection is received, the petition for expungement is for a charge dismissed in
4936 accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used
4937 for enhancement, there is good cause for the court to grant the expungement; and

4938 (f) the interests of the public would not be harmed by granting the expungement.

4939 (2) (a) If the court denies a petition described in Subsection (1)(c) because the
4940 prosecuting attorney intends to refile charges, the petitioner may apply again for a certificate of
4941 eligibility if charges are not refiled within 180 days after the day on which the court denies the
4942 petition.

4943 (b) A prosecuting attorney who opposes an expungement of a case dismissed without
4944 prejudice, or without condition, shall have a good faith basis for the intention to refile the case.

4945 (c) A court shall consider the number of times that good faith basis of intention to
4946 refile by the prosecuting attorney is presented to the court in making the court's determination
4947 to grant the petition for expungement described in Subsection (1)(c).

4948 (3) If the court grants a petition described in Subsection (1)(e), the court shall make the
4949 court's findings in a written order.

4950 (4) A court may not expunge a conviction of an offense for which a certificate of
4951 eligibility may not be, or should not have been, issued under Section 77-40a-302 or
4952 77-40a-303.

4953 Section 82. Section 78A-2-231 is amended to read:

4954 **78A-2-231. Consideration of lawful use or possession of medical cannabis.**

4955 (1) As used in this section:

4956 (a) "Cannabis product" means the same as that term is defined in Section [~~26-61a-102~~]

4957 [26B-4-201](#).

4958 (b) "Directions of use" means the same as that term is defined in Section [~~26-61a-102~~]

4959 [26B-4-201](#).

4960 (c) "Dosing guidelines" means the same as that term is defined in Section [~~26-61a-102~~]

4961 [26B-4-201](#).

4962 (d) "Medical cannabis" means the same as that term is defined in Section [~~26-61a-102~~]

4963 [26B-4-201](#).

4964 (e) "Medical cannabis card" means the same as that term is defined in Section

4965 [~~26-61a-102~~] [26B-4-201](#).

4966 (f) "Medical cannabis device" means the same as that term is defined in Section

4967 [~~26-61a-102~~] [26B-4-201](#).

4968 (g) "Recommending medical provider" means the same as that term is defined in

4969 Section [~~26-61a-102~~] [26B-4-201](#).

4970 (2) In any judicial proceeding in which a judge, panel, jury, or court commissioner
4971 makes a finding, determination, or otherwise considers an individual's medical cannabis card,
4972 medical cannabis recommendation from a recommending medical provider, or possession or
4973 use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel,
4974 jury, or court commissioner may not consider or treat the individual's card, recommendation,
4975 possession, or use any differently than the lawful possession or use of any prescribed controlled
4976 substance if:

4977 (a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production
4978 Establishments;

4979 (b) the individual's possession or use complies with Subsection ~~58-37-3.7~~(2) or (3); or

4980 (c) (i) the individual's possession or use complies with [~~Title 26, Chapter 61a, Utah~~

4981 ~~Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical

4982 Cannabis; and

4983 (ii) the individual reasonably complies with the directions of use and dosing guidelines

4984 determined by the individual's recommending medical provider or through a consultation

4985 described in Subsection [~~26-61a-502(4) or (5)~~] [26B-4-230](#)(4) or (5).

4986 (3) Notwithstanding Sections ~~77-18-105~~ and ~~77-2a-3~~, for probation, release, a plea in

4987 abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of

4988 Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain
4989 from the use or possession of medical cannabis, a cannabis product, or a medical cannabis
4990 device, either directly or through a general prohibition on violating federal law, without an
4991 exception related to medical cannabis use, if the individual's use or possession complies with:

4992 (a) [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2,
4993 Cannabinoid Research and Medical Cannabis; or

4994 (b) Subsection [58-37-3.7](#)(2) or (3).

4995 Section 83. Section **78A-2-301** is amended to read:

4996 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

4997 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
4998 court of record not governed by another subsection is \$375.

4999 (b) The fee for filing a complaint or petition is:

5000 (i) \$90 if the claim for damages or amount in interpleader exclusive of court costs,
5001 interest, and attorney fees is \$2,000 or less;

5002 (ii) \$200 if the claim for damages or amount in interpleader exclusive of court costs,
5003 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

5004 (iii) \$375 if the claim for damages or amount in interpleader is \$10,000 or more;

5005 (iv) \$325 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter
5006 4, Separate Maintenance;

5007 (v) \$35 for a motion for temporary separation order filed under Section [30-3-4.5](#);

5008 (vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender
5009 Registry under Section [77-41-112](#); and

5010 (vii) \$35 if the petition is for guardianship and the prospective ward is the biological or
5011 adoptive child of the petitioner.

5012 (c) The fee for filing a small claims affidavit is:

5013 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
5014 interest, and attorney fees is \$2,000 or less;

5015 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,
5016 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

5017 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
5018 interest, and attorney fees is \$7,500 or more.

5019 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
5020 complaint, or other claim for relief against an existing or joined party other than the original
5021 complaint or petition is:

5022 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is
5023 \$2,000 or less;

5024 (ii) \$165 if the claim for relief exclusive of court costs, interest, and attorney fees is
5025 greater than \$2,000 and less than \$10,000;

5026 (iii) \$170 if the original petition is filed under Subsection (1)(a), the claim for relief is
5027 \$10,000 or more, or the party seeks relief other than monetary damages; and

5028 (iv) \$130 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
5029 Chapter 4, Separate Maintenance.

5030 (e) The fee for filing a small claims counter affidavit is:

5031 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
5032 \$2,000 or less;

5033 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is
5034 greater than \$2,000, but less than \$7,500; and

5035 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is
5036 \$7,500 or more.

5037 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
5038 action already before the court is determined under Subsection (1)(b) based on the amount
5039 deposited.

5040 (g) The fee for filing a petition is:

5041 (i) \$240 for trial de novo of an adjudication of the justice court or of the small claims
5042 department; and

5043 (ii) \$80 for an appeal of a municipal administrative determination in accordance with
5044 Section 10-3-703.7.

5045 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
5046 petition for writ of certiorari is \$240.

5047 (i) The fee for filing a petition for expungement is \$150.

5048 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
5049 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'

5050 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
5051 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
5052 Act.

5053 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be
5054 allocated by the state treasurer to be deposited into the restricted account, Children's Legal
5055 Defense Account, as provided in Section [51-9-408](#).

5056 (iii) Five dollars of the fees established under Subsections (1)(a) through (e), (1)(g),
5057 and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided
5058 in Section [78B-6-209](#).

5059 (iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
5060 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be
5061 deposited into the restricted account, Court Security Account, as provided in Section
5062 [78A-2-602](#).

5063 (v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii)
5064 and (1)(g)(i) shall be allocated by the state treasurer to be deposited into the restricted account,
5065 Court Security Account, as provided in Section [78A-2-602](#).

5066 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
5067 United States is \$35.

5068 (l) The fee for filing a renewal of judgment in accordance with Section [78B-6-1801](#) is
5069 50% of the fee for filing an original action seeking the same relief.

5070 (m) The fee for filing probate or child custody documents from another state is \$35.

5071 (n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
5072 State Tax Commission is \$30.

5073 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
5074 or a judgment, order, or decree of an administrative agency, commission, board, council, or
5075 hearing officer of this state or of its political subdivisions other than the State Tax
5076 Commission, is \$50.

5077 (o) The fee for filing a judgment by confession without action under Section
5078 [78B-5-205](#) is \$35.

5079 (p) The fee for filing an award of arbitration for confirmation, modification, or
5080 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an

5081 action before the court is \$35.

5082 (q) The fee for filing a petition or counter-petition to modify a domestic relations order
5083 other than a protective order or stalking injunction is \$100.

5084 (r) The fee for filing any accounting required by law is:

5085 (i) \$15 for an estate valued at \$50,000 or less;

5086 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

5087 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

5088 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

5089 (v) \$175 for an estate valued at more than \$168,000.

5090 (s) The fee for filing a demand for a civil jury is \$250.

5091 (t) The fee for filing a notice of deposition in this state concerning an action pending in
5092 another state under Utah Rules of Civil Procedure, Rule 30 is \$35.

5093 (u) The fee for filing documents that require judicial approval but are not part of an
5094 action before the court is \$35.

5095 (v) The fee for a petition to open a sealed record is \$35.

5096 (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
5097 addition to any fee for a complaint or petition.

5098 (x) (i) The fee for a petition for authorization for a minor to marry required by Section
5099 [30-1-9](#) is \$5.

5100 (ii) The fee for a petition for emancipation of a minor provided in Title 80, Chapter 7,
5101 Emancipation, is \$50.

5102 (y) The fee for a certificate issued under Section ~~[26-2-25]~~ [26B-8-128](#) is \$8.

5103 (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per
5104 page.

5105 (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
5106 per page.

5107 (bb) The Judicial Council shall, by rule, establish a schedule of fees for copies of
5108 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,
5109 Government Records Access and Management Act. Fees under Subsection (1)(bb) and (cc)
5110 shall be credited to the court as a reimbursement of expenditures.

5111 (cc) The Judicial Council may, by rule, establish a reasonable fee to allow members of

5112 the public to conduct a limited amount of searches on the Xchange database without having to
5113 pay a monthly subscription fee.

5114 (dd) There is no fee for services or the filing of documents not listed in this section or
5115 otherwise provided by law.

5116 (ee) Except as provided in this section, all fees collected under this section are paid to
5117 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
5118 accepts the pleading for filing or performs the requested service.

5119 (ff) The filing fees under this section may not be charged to the state, the state's
5120 agencies, or political subdivisions filing or defending any action. In judgments awarded in
5121 favor of the state, its agencies, or political subdivisions, except the Office of Recovery
5122 Services, the court shall order the filing fees and collection costs to be paid by the judgment
5123 debtor. The sums collected under this Subsection (1)(ff) shall be applied to the fees after credit
5124 to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

5125 (2) (a) (i) From March 17, 1994, until June 30, 1998, the state court administrator shall
5126 transfer all revenues representing the difference between the fees in effect after May 2, 1994,
5127 and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities
5128 Construction and Management Capital Projects Fund.

5129 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
5130 Construction and Management shall use up to \$3,750,000 of the revenue deposited into the
5131 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to
5132 initiate the development of a courts complex in Salt Lake City.

5133 (B) If the Legislature approves funding for construction of a courts complex in Salt
5134 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
5135 Management shall use the revenue deposited into the Capital Projects Fund under this
5136 Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

5137 (C) After the courts complex is completed and all bills connected with its construction
5138 have been paid, the Division of Facilities Construction and Management shall use any money
5139 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
5140 District Court building.

5141 (iii) The Division of Facilities Construction and Management may enter into
5142 agreements and make expenditures related to this project before the receipt of revenues

5143 provided for under this Subsection (2)(a)(iii).

5144 (iv) The Division of Facilities Construction and Management shall:

5145 (A) make those expenditures from unexpended and unencumbered building funds
5146 already appropriated to the Capital Projects Fund; and

5147 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
5148 under this Subsection (2).

5149 (b) After June 30, 1998, the state court administrator shall ensure that all revenues
5150 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
5151 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
5152 account.

5153 (c) The Division of Finance shall deposit all revenues received from the state court
5154 administrator into the restricted account created by this section.

5155 (d) (i) From May 1, 1995, until June 30, 1998, the state court administrator shall
5156 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
5157 Vehicles, in a court of record to the Division of Facilities Construction and Management
5158 Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be
5159 calculated on the balance of the fine or bail forfeiture paid.

5160 (ii) After June 30, 1998, the state court administrator or a municipality shall transfer \$7
5161 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a
5162 court of record to the Division of Finance for deposit in the restricted account created by this
5163 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the
5164 balance of the fine or bail forfeiture paid.

5165 (3) (a) There is created within the General Fund a restricted account known as the State
5166 Courts Complex Account.

5167 (b) The Legislature may appropriate money from the restricted account to the state
5168 court administrator for the following purposes only:

5169 (i) to repay costs associated with the construction of the court complex that were
5170 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

5171 (ii) to cover operations and maintenance costs on the court complex.

5172 (4) (a) The requirement of a fee for filing a petition for expungement under Subsection
5173 (1)(i) is suspended from May 4, 2022, to June 30, 2023.

5174 (b) An individual may not be charged a fee for filing a petition for expungement during
5175 the time period described in Subsection (4)(a).

5176 Section 84. Section **78A-5-201** is amended to read:

5177 **78A-5-201. Creation and expansion of existing drug court programs -- Definition**
5178 **of drug court program -- Criteria for participation in drug court programs -- Reporting**
5179 **requirements.**

5180 (1) There may be created a drug court program in any judicial district that
5181 demonstrates:

5182 (a) the need for a drug court program; and

5183 (b) the existence of a collaborative strategy between the court, prosecutors, defense
5184 counsel, corrections, and substance abuse treatment services to reduce substance abuse by
5185 offenders.

5186 (2) The collaborative strategy in each drug court program shall:

5187 (a) include monitoring and evaluation components to measure program effectiveness;

5188 and

5189 (b) be submitted to, for the purpose of coordinating the disbursement of funding, the:

5190 (i) executive director of the Department of [~~Human Services~~] Health and Human
5191 Services;

5192 (ii) executive director of the Department of Corrections; and

5193 (iii) state court administrator.

5194 (3) (a) Funds disbursed to a drug court program shall be allocated as follows:

5195 (i) 87% to the Department of [~~Human Services~~] Health and Human Services for
5196 testing, treatment, and case management; and

5197 (ii) 13% to the Administrative Office of the Courts for increased judicial and court
5198 support costs.

5199 (b) This provision does not apply to federal block grant funds.

5200 (4) A drug court program shall include continuous judicial supervision using a
5201 cooperative approach with prosecutors, defense counsel, corrections, substance abuse treatment
5202 services, juvenile court probation, and the Division of Child and Family Services as appropriate
5203 to promote public safety, protect participants' due process rights, and integrate substance abuse
5204 treatment with justice system case processing.

- 5205 (5) Screening criteria for participation in a drug court program shall include:
5206 (a) a plea to, conviction of, or adjudication for a nonviolent drug offense or
5207 drug-related offense;
5208 (b) an agreement to frequent alcohol and other drug testing;
5209 (c) participation in one or more substance abuse treatment programs; and
5210 (d) an agreement to submit to sanctions for noncompliance with drug court program
5211 requirements.

5212 (6) (a) The Judicial Council shall develop rules prescribing eligibility requirements for
5213 participation in adult criminal drug courts.

5214 (b) Acceptance of an offender into a drug court shall be based on a risk and needs
5215 assessment, without regard to the nature of the offense.

5216 (c) A plea to, conviction of, or adjudication for a felony offense is not required for
5217 participation in a drug court program.

5218 Section 85. Section **78A-6-103** is amended to read:

5219 **78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions --**
5220 **Findings -- Transfer of a case from another court.**

5221 (1) Except as otherwise provided by Sections [78A-5-102.5](#) and [78A-7-106](#), the juvenile
5222 court has original jurisdiction over:

5223 (a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal,
5224 state, or federal law, that was committed by a child;

5225 (b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal,
5226 state, or federal law, that was committed by an individual:

5227 (i) who is under 21 years old at the time of all court proceedings; and

5228 (ii) who was under 18 years old at the time the offense was committed; and

5229 (c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state
5230 law, that was committed:

5231 (i) by an individual:

5232 (A) who was 18 years old and enrolled in high school at the time of the offense; and

5233 (B) who is under 21 years old at the time of all court proceedings; and

5234 (ii) on school property where the individual was enrolled:

5235 (A) when school was in session; or

- 5236 (B) during a school-sponsored activity, as defined in Subsection [53G-8-211\(1\)\(k\)](#).
- 5237 (2) The juvenile court has original jurisdiction over any proceeding concerning:
- 5238 (a) a child who is an abused child, neglected child, or dependent child;
- 5239 (b) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child
- 5240 Protective Orders;
- 5241 (c) the appointment of a guardian of the individual or other guardian of a minor who
- 5242 comes within the court's jurisdiction under other provisions of this section;
- 5243 (d) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;
- 5244 (e) the termination of parental rights in accordance with Title 80, Chapter 4,
- 5245 Termination and Restoration of Parental Rights, including termination of residual parental
- 5246 rights and duties;
- 5247 (f) the treatment or commitment of a minor who has an intellectual disability;
- 5248 (g) the judicial consent to the marriage of a minor who is 16 or 17 years old in
- 5249 accordance with Section [30-1-9](#);
- 5250 (h) an order for a parent or a guardian of a child under Subsection [80-6-705\(3\)](#);
- 5251 (i) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;
- 5252 (j) the treatment or commitment of a child with a mental illness;
- 5253 (k) the commitment of a child to a secure drug or alcohol facility in accordance with
- 5254 Section [~~62A-15-301~~] [26B-5-204](#);
- 5255 (l) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part
- 5256 4, Competency;
- 5257 (m) de novo review of final agency actions resulting from an informal adjudicative
- 5258 proceeding as provided in Section [63G-4-402](#);
- 5259 (n) adoptions conducted in accordance with the procedures described in Title 78B,
- 5260 Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order
- 5261 terminating the rights of a parent and finds that adoption is in the best interest of the child;
- 5262 (o) an ungovernable or runaway child who is referred to the juvenile court by the
- 5263 Division of Juvenile Justice Services if, despite earnest and persistent efforts by the Division of
- 5264 Juvenile Justice Services, the child has demonstrated that the child:
- 5265 (i) is beyond the control of the child's parent, guardian, or custodian to the extent that
- 5266 the child's behavior or condition endangers the child's own welfare or the welfare of others; or

5267 (ii) has run away from home; and

5268 (p) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult
5269 alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply
5270 with a promise to appear and bring a child to the juvenile court.

5271 (3) It is not necessary for a minor to be adjudicated for an offense or violation of the
5272 law under Section 80-6-701, for the juvenile court to exercise jurisdiction under Subsection
5273 (2)(p).

5274 (4) This section does not restrict the right of access to the juvenile court by private
5275 agencies or other persons.

5276 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases
5277 arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

5278 (6) The juvenile court has jurisdiction to make a finding of substantiated,
5279 unsubstantiated, or without merit, in accordance with Section 80-3-404.

5280 (7) The juvenile court has jurisdiction over matters transferred to the juvenile court by
5281 another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

5282 Section 86. Section 78A-6-208 is amended to read:

5283 **78A-6-208. Mental health evaluations -- Duty of administrator.**

5284 (1) The chief administrative officer of the juvenile court, with the approval of the
5285 board, and the executive director of the Department of ~~[Health]~~ Health and Human Services,
5286 and director of the Division of Substance Abuse and Mental Health shall from time to time
5287 agree upon an appropriate plan:

5288 (a) for obtaining mental health services and health services for the juvenile court from
5289 the state and local health departments and programs of mental health; and

5290 (b) for assistance by the Department of ~~[Health]~~ Health and Human Services or the
5291 Division of Substance Abuse and Mental Health in securing for the juvenile court special
5292 health, mental health, juvenile competency evaluations, and related services including
5293 community mental health services not already available from the Department of ~~[Health]~~
5294 Health and Human Services and the Division of Substance Abuse and Mental Health.

5295 (2) The Legislature may provide an appropriation to the Department of ~~[Health]~~ Health
5296 and Human Services and the Division of Substance Abuse and Mental Health for the services
5297 under Subsection (1).

5298 Section 87. Section **78A-6-209** is amended to read:

5299 **78A-6-209. Court records -- Inspection.**

5300 (1) The juvenile court and the juvenile court's probation department shall keep records
5301 as required by the board and the presiding judge.

5302 (2) A court record shall be open to inspection by:

5303 (a) the parents or guardian of a child, a minor who is at least 18 years old, other parties
5304 in the case, the attorneys, and agencies to which custody of a minor has been transferred;

5305 (b) for information relating to adult offenders alleged to have committed a sexual
5306 offense, a felony or class A misdemeanor drug offense, or an offense against the person under
5307 Title 76, Chapter 5, Offenses Against the Individual, the State Board of Education for the
5308 purpose of evaluating whether an individual should be permitted to obtain or retain a license as
5309 an educator or serve as an employee or volunteer in a school, with the understanding that the
5310 State Board of Education must provide the individual with an opportunity to respond to any
5311 information gathered from the State Board of Education's inspection of the records before the
5312 State Board of Education makes a decision concerning licensure or employment;

5313 (c) the Criminal Investigations and Technical Services Division, established in Section
5314 [53-10-103](#), for the purpose of a criminal history background check for the purchase of a firearm
5315 and establishing good character for issuance of a concealed firearm permit as provided in
5316 Section [53-5-704](#);

5317 (d) the Division of Child and Family Services for the purpose of Child Protective
5318 Services Investigations in accordance with Sections [80-2-602](#) and [80-2-701](#) and administrative
5319 hearings in accordance with Section [80-2-707](#);

5320 (e) the Office of Licensing for the purpose of conducting a background check in
5321 accordance with Section [~~62A-2-120~~] [26B-2-120](#);

5322 (f) for information related to a minor who has committed a sexual offense, a felony, or
5323 an offense that if committed by an adult would be a misdemeanor, the Department of [~~Health~~]
5324 Health and Human Services for the purpose of evaluating under the provisions of Subsection
5325 [~~26-39-404(3)~~] [26B-2-406\(3\)](#) whether a licensee should be permitted to obtain or retain a
5326 license to provide child care, with the understanding that the department must provide the
5327 individual who committed the offense with an opportunity to respond to any information
5328 gathered from the Department of [~~Health's~~] Health and Human Services' inspection of records

5329 before the Department of [~~Health~~] Health and Human Services makes a decision concerning
5330 licensure;

5331 (g) for information related to a minor who has committed a sexual offense, a felony, or
5332 an offense that if committed by an adult would be a misdemeanor, the Department of [~~Health~~]
5333 Health and Human Services to determine whether an individual meets the background
5334 screening requirements of [~~Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access~~]
5335 Sections 26B-2-238 through 26B-2-241, with the understanding that the department must
5336 provide the individual who committed the offense an opportunity to respond to any information
5337 gathered from the Department of [~~Health's~~] Health and Human Services' inspection of records
5338 before the Department of [~~Health~~] Health and Human Services makes a decision under that
5339 part; and

5340 (h) for information related to a minor who has committed a sexual offense, a felony, or
5341 an offense that if committed by an adult would be a misdemeanor, the Department of [~~Health~~]
5342 Health and Human Services to determine whether to grant, deny, or revoke background
5343 clearance under Section [~~26-8a-310~~] 26B-4-124 for an individual who is seeking or who has
5344 obtained an emergency medical service personnel license under Section [~~26-8a-302~~]
5345 26B-4-116, with the understanding that the Department of [~~Health~~] Health and Human
5346 Services must provide the individual who committed the offense an opportunity to respond to
5347 any information gathered from the Department of [~~Health's~~] Health and Human Services'
5348 inspection of records before the Department of [~~Health~~] Health and Human Services makes a
5349 determination.

5350 (3) With the consent of the juvenile court, a court record may be inspected by the child,
5351 by persons having a legitimate interest in the proceedings, and by persons conducting pertinent
5352 research studies.

5353 (4) If a petition is filed charging a minor who is 14 years old or older with an offense
5354 that would be a felony if committed by an adult, the juvenile court shall make available to any
5355 person upon request the petition, any adjudication or disposition orders, and the delinquency
5356 history summary of the minor charged unless the records are closed by the juvenile court upon
5357 findings on the record for good cause.

5358 (5) A juvenile probation officer's records and reports of social and clinical studies are
5359 not open to inspection, except by consent of the juvenile court, given under rules adopted by

5360 the board.

5361 (6) The juvenile court may charge a reasonable fee to cover the costs associated with
5362 retrieving a requested record that has been archived.

5363 Section 88. Section **78A-6-356** is amended to read:

5364 **78A-6-356. Child support obligation when custody of a child is vested in an**
5365 **individual or institution.**

5366 (1) As used in this section:

5367 (a) "Office" means the Office of Recovery Services.

5368 (b) "State custody" means that a child is in the custody of a state department, division,
5369 or agency, including secure care.

5370 (2) Under this section, a juvenile court may not issue a child support order against an
5371 individual unless:

5372 (a) the individual is served with notice that specifies the date and time of a hearing to
5373 determine the financial support of a specified child;

5374 (b) the individual makes a voluntary appearance; or

5375 (c) the individual submits a waiver of service.

5376 (3) Except as provided in Subsection (11), when a juvenile court places a child in state
5377 custody or if the guardianship of the child has been granted to another party and an agreement
5378 for a guardianship subsidy has been signed by the guardian, the juvenile court:

5379 (a) shall order the child's parent, guardian, or other obligated individual to pay child
5380 support for each month the child is in state custody or cared for under a grant of guardianship;

5381 (b) shall inform the child's parent, guardian, or other obligated individual, verbally and
5382 in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12,
5383 Utah Child Support Act; and

5384 (c) may refer the establishment of a child support order to the office.

5385 (4) When a juvenile court chooses to refer a case to the office to determine support
5386 obligation amounts in accordance with Title 78B, Chapter 12, Utah Child Support Act, the
5387 juvenile court shall:

5388 (a) make the referral within three working days after the day on which the juvenile
5389 court holds the hearing described in Subsection (2)(a); and

5390 (b) inform the child's parent, guardian, or other obligated individual of:

- 5391 (i) the requirement to contact the office within 30 days after the day on which the
5392 juvenile court holds the hearing described in Subsection (2)(a); and
- 5393 (ii) the penalty described in Subsection (6) for failure to contact the office.
- 5394 (5) Liability for child support ordered under Subsection (3) shall accrue:
- 5395 (a) except as provided in Subsection (5)(b), beginning on day 61 after the day on which
5396 the juvenile court holds the hearing described in Subsection (2)(a) if there is no existing child
5397 support order for the child; or
- 5398 (b) beginning on the day the child is removed from the child's home, including time
5399 spent in detention or sheltered care, if the child is removed after having been returned to the
5400 child's home from state custody.
- 5401 (6) (a) If the child's parent, guardian, or other obligated individual contacts the office
5402 within 30 days after the day on which the court holds the hearing described in Subsection
5403 (2)(a), the child support order may not include a judgment for past due support for more than
5404 two months.
- 5405 (b) Notwithstanding Subsections (5) and (6)(a), the juvenile court may order the
5406 liability of support to begin to accrue from the date of the proceeding referenced in Subsection
5407 (3) if:
- 5408 (i) the court informs the child's parent, guardian, or other obligated individual, as
5409 described in Subsection (4)(b), and the parent, guardian, or other obligated individual fails to
5410 contact the office within 30 days after the day on which the court holds the hearing described in
5411 Subsection (2)(a); and
- 5412 (ii) the office took reasonable steps under the circumstances to contact the child's
5413 parent, guardian, or other obligated individual within 30 days after the last day on which the
5414 parent, guardian, or other obligated individual was required to contact the office to facilitate the
5415 establishment of a child support order.
- 5416 (c) For purposes of Subsection (6)(b)(ii), the office is presumed to have taken
5417 reasonable steps if the office:
- 5418 (i) has a signed, returned receipt for a certified letter mailed to the address of the child's
5419 parent, guardian, or other obligated individual regarding the requirement that a child support
5420 order be established; or
- 5421 (ii) has had a documented conversation, whether by telephone or in person, with the

5422 child's parent, guardian, or other obligated individual regarding the requirement that a child
5423 support order be established.

5424 (7) In collecting arrears, the office shall comply with Section [~~62A-11-320~~] [26B-9-219](#)
5425 in setting a payment schedule or demanding payment in full.

5426 (8) (a) Unless a court orders otherwise, the child's parent, guardian, or other obligated
5427 individual shall pay the child support to the office.

5428 (b) The clerk of the juvenile court, the office, or the department and the department's
5429 divisions shall have authority to receive periodic payments for the care and maintenance of the
5430 child, such as social security payments or railroad retirement payments made in the name of or
5431 for the benefit of the child.

5432 (9) An existing child support order payable to a parent or other individual shall be
5433 assigned to the department as provided in Section [~~62A-1-117~~] [26B-9-111](#).

5434 (10) (a) Subsections (4) through (9) do not apply if legal custody of a child is vested by
5435 the juvenile court in an individual.

5436 (b) (i) If legal custody of a child is vested by the juvenile court in an individual, the
5437 court may order the child's parent, guardian, or other obligated individual to pay child support
5438 to the individual in whom custody is vested.

5439 (ii) In the same proceeding, the juvenile court shall inform the child's parent, guardian,
5440 or other obligated individual, verbally and in writing, of the requirement to pay child support in
5441 accordance with Title 78B, Chapter 12, Utah Child Support Act.

5442 (11) The juvenile court may not order an individual to pay child support for a child in
5443 state custody if:

5444 (a) the individual's only form of income is a government-issued disability benefit;

5445 (b) the benefit described in Subsection (11)(a) is issued because of the individual's
5446 disability, and not the child's disability; and

5447 (c) the individual provides the juvenile court and the office evidence that the individual
5448 meets the requirements of Subsections (11)(a) and (b).

5449 (12) (a) The child's parent or another obligated individual is not responsible for child
5450 support for the period of time that the child is removed from the child's home by the Division
5451 of Child and Family Services if:

5452 (i) the juvenile court finds that there were insufficient grounds for the removal of the

5453 child; and

5454 (ii) the child is returned to the home of the child's parent or guardian based on the
5455 finding described in Subsection (12)(a)(i).

5456 (b) If the juvenile court finds insufficient grounds for the removal of the child under
5457 Subsection (12)(a), but that the child is to remain in state custody, the juvenile court shall order
5458 that the child's parent or another obligated individual is responsible for child support beginning
5459 on the day on which it became improper to return the child to the home of the child's parent or
5460 guardian.

5461 (13) After the juvenile court or the office establishes an individual's child support
5462 obligation ordered under Subsection (3), the office shall waive the obligation without further
5463 order of the juvenile court if:

5464 (a) the individual's child support obligation is established under the low income table
5465 in Section 78B-12-302 or 78B-12-304; or

5466 (b) the individual's only source of income is a means-tested, income replacement
5467 payment of aid, including:

5468 (i) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment
5469 Program; or

5470 (ii) cash benefits received under General Assistance, social security income, or social
5471 security disability income.

5472 Section 89. Section 78B-3-403 is amended to read:

5473 **78B-3-403. Definitions.**

5474 As used in this part:

5475 (1) "Audiologist" means a person licensed to practice audiology under Title 58,
5476 Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

5477 (2) "Certified social worker" means a person licensed to practice as a certified social
5478 worker under Section 58-60-205.

5479 (3) "Chiropractic physician" means a person licensed to practice chiropractic under
5480 Title 58, Chapter 73, Chiropractic Physician Practice Act.

5481 (4) "Clinical social worker" means a person licensed to practice as a clinical social
5482 worker under Section 58-60-205.

5483 (5) "Commissioner" means the commissioner of insurance as provided in Section

5484 [31A-2-102](#).

5485 (6) "Dental hygienist" means a person licensed to engage in the practice of dental
5486 hygiene as defined in Section [58-69-102](#).

5487 (7) "Dental care provider" means any person, partnership, association, corporation, or
5488 other facility or institution who causes to be rendered or who renders dental care or
5489 professional services as a dentist, dental hygienist, or other person rendering similar care and
5490 services relating to or arising out of the practice of dentistry or the practice of dental hygiene,
5491 and the officers, employees, or agents of any of the above acting in the course and scope of
5492 their employment.

5493 (8) "Dentist" means a person licensed to engage in the practice of dentistry as defined
5494 in Section [58-69-102](#).

5495 (9) "Division" means the Division of Professional Licensing created in Section
5496 [58-1-103](#).

5497 (10) "Future damages" includes a judgment creditor's damages for future medical
5498 treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and
5499 suffering.

5500 (11) "Health care" means any act or treatment performed or furnished, or which should
5501 have been performed or furnished, by any health care provider for, to, or on behalf of a patient
5502 during the patient's medical care, treatment, or confinement.

5503 (12) "Health care facility" means general acute hospitals, specialty hospitals, home
5504 health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers,
5505 ambulatory surgical facilities, small health care facilities, health care facilities owned or
5506 operated by health maintenance organizations, and end stage renal disease facilities.

5507 (13) "Health care provider" includes any person, partnership, association, corporation,
5508 or other facility or institution who causes to be rendered or who renders health care or
5509 professional services as a hospital, health care facility, physician, physician assistant, registered
5510 nurse, licensed practical nurse, nurse-midwife, licensed direct-entry midwife, dentist, dental
5511 hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, physical
5512 therapist assistant, podiatric physician, psychologist, chiropractic physician, naturopathic
5513 physician, osteopathic physician, osteopathic physician and surgeon, audiologist,
5514 speech-language pathologist, clinical social worker, certified social worker, social service

5515 worker, marriage and family counselor, practitioner of obstetrics, licensed athletic trainer, or
5516 others rendering similar care and services relating to or arising out of the health needs of
5517 persons or groups of persons and officers, employees, or agents of any of the above acting in
5518 the course and scope of their employment.

5519 (14) "Hospital" means a public or private institution licensed under [~~Title 26, Chapter~~
5520 ~~21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health
5521 Care Facility Licensing and Inspection.

5522 (15) "Licensed athletic trainer" means a person licensed under Title 58, Chapter 40a,
5523 Athletic Trainer Licensing Act.

5524 (16) "Licensed direct-entry midwife" means a person licensed under the Direct-entry
5525 Midwife Act to engage in the practice of direct-entry midwifery as defined in Section
5526 [58-77-102](#).

5527 (17) "Licensed practical nurse" means a person licensed to practice as a licensed
5528 practical nurse as provided in Section [58-31b-301](#).

5529 (18) "Malpractice action against a health care provider" means any action against a
5530 health care provider, whether in contract, tort, breach of warranty, wrongful death, or
5531 otherwise, based upon alleged personal injuries relating to or arising out of health care rendered
5532 or which should have been rendered by the health care provider.

5533 (19) "Marriage and family therapist" means a person licensed to practice as a marriage
5534 therapist or family therapist under Sections [58-60-305](#) and [58-60-405](#).

5535 (20) "Naturopathic physician" means a person licensed to engage in the practice of
5536 naturopathic medicine as defined in Section [58-71-102](#).

5537 (21) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife
5538 under Section [58-44a-301](#).

5539 (22) "Optometrist" means a person licensed to practice optometry under Title 58,
5540 Chapter 16a, Utah Optometry Practice Act.

5541 (23) "Osteopathic physician" means a person licensed to practice osteopathy under
5542 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

5543 (24) "Patient" means a person who is under the care of a health care provider, under a
5544 contract, express or implied.

5545 (25) "Periodic payments" means the payment of money or delivery of other property to

5546 a judgment creditor at intervals ordered by the court.

5547 (26) "Pharmacist" means a person licensed to practice pharmacy as provided in Section
5548 [58-17b-301](#).

5549 (27) "Physical therapist" means a person licensed to practice physical therapy under
5550 Title 58, Chapter 24b, Physical Therapy Practice Act.

5551 (28) "Physical therapist assistant" means a person licensed to practice physical therapy,
5552 within the scope of a physical therapist assistant license, under Title 58, Chapter 24b, Physical
5553 Therapy Practice Act.

5554 (29) "Physician" means a person licensed to practice medicine and surgery under Title
5555 58, Chapter 67, Utah Medical Practice Act.

5556 (30) "Physician assistant" means a person licensed to practice as a physician assistant
5557 under Title 58, Chapter 70a, Utah Physician Assistant Act.

5558 (31) "Podiatric physician" means a person licensed to practice podiatry under Title 58,
5559 Chapter 5a, Podiatric Physician Licensing Act.

5560 (32) "Practitioner of obstetrics" means a person licensed to practice as a physician in
5561 this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58, Chapter 68,
5562 Utah Osteopathic Medical Practice Act.

5563 (33) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist
5564 Licensing Act, to engage in the practice of psychology as defined in Section [58-61-102](#).

5565 (34) "Registered nurse" means a person licensed to practice professional nursing as
5566 provided in Section [58-31b-301](#).

5567 (35) "Relative" means a patient's spouse, parent, grandparent, stepfather, stepmother,
5568 child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The term
5569 includes relationships that are created as a result of adoption.

5570 (36) "Representative" means the spouse, parent, guardian, trustee, attorney-in-fact,
5571 person designated to make decisions on behalf of a patient under a medical power of attorney,
5572 or other legal agent of the patient.

5573 (37) "Social service worker" means a person licensed to practice as a social service
5574 worker under Section [58-60-205](#).

5575 (38) "Speech-language pathologist" means a person licensed to practice
5576 speech-language pathology under Title 58, Chapter 41, Speech-Language Pathology and

5577 Audiology Licensing Act.

5578 (39) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or
5579 omission proximately causing injury or damage to another.

5580 (40) "Unanticipated outcome" means the outcome of a medical treatment or procedure
5581 that differs from an expected result.

5582 Section 90. Section **78B-3-405** is amended to read:

5583 **78B-3-405. Amount of award reduced by amounts of collateral sources available**
5584 **to plaintiff -- No reduction where subrogation right exists -- Collateral sources defined --**
5585 **Procedure to preserve subrogation rights -- Evidence admissible -- Exceptions.**

5586 (1) In all malpractice actions against health care providers as defined in Section
5587 **78B-3-403** in which damages are awarded to compensate the plaintiff for losses sustained, the
5588 court shall reduce the amount of the award by the total of all amounts paid to the plaintiff from
5589 all collateral sources which are available to him. No reduction may be made for collateral
5590 sources for which a subrogation right exists as provided in this section nor shall there be a
5591 reduction for any collateral payment not included in the award of damages.

5592 (2) Upon a finding of liability and an awarding of damages by the trier of fact, the court
5593 shall receive evidence concerning the total amounts of collateral sources which have been paid
5594 to or for the benefit of the plaintiff or are otherwise available to him. The court shall also take
5595 testimony of any amount which has been paid, contributed, or forfeited by, or on behalf of the
5596 plaintiff or members of his immediate family to secure his right to any collateral source benefit
5597 which he is receiving as a result of his injury, and shall offset any reduction in the award by
5598 those amounts. Evidence may not be received and a reduction may not be made with respect to
5599 future collateral source benefits except as specified in Subsection (5).

5600 (3) For purposes of this section "collateral source" means payments made to or for the
5601 benefit of the plaintiff for:

5602 (a) medical expenses and disability payments payable under the United States Social
5603 Security Act, any federal, state, or local income disability act, or any other public program,
5604 except the federal programs which are required by law to seek subrogation;

5605 (b) any health, sickness, or income replacement insurance, automobile accident
5606 insurance that provides health benefits or income replacement coverage, and any other similar
5607 insurance benefits, except life insurance benefits available to the plaintiff, whether purchased

5608 by the plaintiff or provided by others;

5609 (c) any contract or agreement of any person, group, organization, partnership, or
5610 corporation to provide, pay for, or reimburse the costs of hospital, medical, dental, or other
5611 health care services, except benefits received as gifts, contributions, or assistance made
5612 gratuitously; and

5613 (d) any contractual or voluntary wage continuation plan provided by employers or any
5614 other system intended to provide wages during a period of disability.

5615 (4) To preserve subrogation rights for amounts paid or received prior to settlement or
5616 judgment, a provider of collateral sources shall, at least 30 days before settlement or trial of the
5617 action, serve a written notice upon each health care provider against whom the malpractice
5618 action has been asserted. The written notice shall state:

5619 (a) the name and address of the provider of collateral sources;

5620 (b) the amount of collateral sources paid;

5621 (c) the names and addresses of all persons who received payment; and

5622 (d) the items and purposes for which payment has been made.

5623 (5) Evidence is admissible of government programs that provide payments or benefits
5624 available in the future to or for the benefit of the plaintiff to the extent available irrespective of
5625 the recipient's ability to pay. Evidence of the likelihood or unlikelihood that the programs,
5626 payments, or benefits will be available in the future is also admissible. The trier of fact may
5627 consider the evidence in determining the amount of damages awarded to a plaintiff for future
5628 expenses.

5629 (6) A provider of collateral sources is not entitled to recover any amount of benefits
5630 from a health care provider, the plaintiff, or any other person or entity as reimbursement for
5631 collateral source payments made prior to settlement or judgment, including any payments made
5632 under [~~Title 26, Chapter 19, Medical Benefits Recovery Act~~] Title 26B, Chapter 3, Part 10,
5633 Medical Benefits Recovery, except to the extent that subrogation rights to amounts paid prior
5634 to settlement or judgment are preserved as provided in this section.

5635 (7) All policies of insurance providing benefits affected by this section are construed in
5636 accordance with this section.

5637 Section 91. Section **78B-3-701** is amended to read:

5638 **78B-3-701. Definitions.**

5639 As used in this part:

5640 (1) "Disability" has the same meaning as defined in Section [~~62A-5b-102~~] [26B-6-801](#).

5641 (2) "Search and rescue dog" means a dog:

5642 (a) with documented training to locate persons who are:

5643 (i) lost, missing, or injured; or

5644 (ii) trapped under debris as the result of a natural or man-made event; and

5645 (b) affiliated with an established search and rescue dog organization.

5646 (3) "Service animal" means:

5647 (a) a service animal, as defined in Section [~~62A-5b-102~~] [26B-6-801](#); or

5648 (b) a search and rescue dog.

5649 Section 92. Section **78B-4-501** is amended to read:

5650 **78B-4-501. Good Samaritan Law.**

5651 (1) As used in this section:

5652 (a) "Child" means an individual of such an age that a reasonable person would perceive
5653 the individual as unable to open the door of a locked motor vehicle, but in any case younger
5654 than 18 years of age.

5655 (b) "Emergency" means an unexpected occurrence involving injury, threat of injury, or
5656 illness to a person or the public, including motor vehicle accidents, disasters, actual or
5657 threatened discharges, removal or disposal of hazardous materials, and other accidents or
5658 events of a similar nature.

5659 (c) "Emergency care" includes actual assistance or advice offered to avoid, mitigate, or
5660 attempt to mitigate the effects of an emergency.

5661 (d) "First responder" means a state or local:

5662 (i) law enforcement officer, as defined in Section [53-13-103](#);

5663 (ii) firefighter, as defined in Section [34A-3-113](#); or

5664 (iii) emergency medical service provider, as defined in Section [~~26-8a-102~~] [26B-4-101](#).

5665 (e) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

5666 (2) A person who renders emergency care at or near the scene of, or during, an
5667 emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a
5668 result of any act or omission by the person rendering the emergency care, unless the person is
5669 grossly negligent or caused the emergency.

5670 (3) (a) A person who gratuitously, and in good faith, assists a governmental agency or
5671 political subdivision in an activity described in Subsections (3)(a)(i) through (iii) is not liable
5672 for any civil damages or penalties as a result of any act or omission, unless the person
5673 rendering assistance is grossly negligent in:

5674 (i) implementing measures to control the causes of epidemic and communicable
5675 diseases and other conditions significantly affecting the public health, or necessary to protect
5676 the public health as set out in Title 26A, Chapter 1, Local Health Departments;

5677 (ii) investigating and controlling suspected bioterrorism and disease as set out in [~~Title~~
5678 ~~26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part 3,
5679 Treatment, Isolation, and Quarantine Procedures for Communicable Diseases; and

5680 (iii) responding to a national, state, or local emergency, a public health emergency as
5681 defined in Section [~~26-23b-102~~] 26B-7-301, or a declaration by the president of the United
5682 States or other federal official requesting public health-related activities.

5683 (b) The immunity in this Subsection (3) is in addition to any immunity or protection in
5684 state or federal law that may apply.

5685 (4) (a) A person who uses reasonable force to enter a locked and unattended motor
5686 vehicle to remove a confined child is not liable for damages in a civil action if all of the
5687 following apply:

5688 (i) the person has a good faith belief that the confined child is in imminent danger of
5689 suffering physical injury or death unless the confined child is removed from the motor vehicle;

5690 (ii) the person determines that the motor vehicle is locked and there is no reasonable
5691 manner in which the person can remove the confined child from the motor vehicle;

5692 (iii) before entering the motor vehicle, the person notifies a first responder of the
5693 confined child;

5694 (iv) the person does not use more force than is necessary under the circumstances to
5695 enter the motor vehicle and remove the confined child from the vehicle; and

5696 (v) the person remains with the child until a first responder arrives at the motor vehicle.

5697 (b) A person is not immune from civil liability under this Subsection (4) if the person
5698 fails to abide by any of the provisions of Subsection (4)(a) or commits any unnecessary or
5699 malicious damage to the motor vehicle.

5700 Section 93. Section **78B-5-618** is amended to read:

5701 **78B-5-618. Patient access to medical records -- Third party access to medical**
5702 **records.**

5703 (1) As used in this section:

5704 (a) "Health care provider" means the same as that term is defined in Section

5705 [78B-3-403](#).

5706 (b) "Indigent individual" means an individual whose household income is at or below
5707 100% of the federal poverty level as defined in Section ~~[26-18-3-9]~~ [26B-3-113](#).

5708 (c) "Inflation" means the unadjusted Consumer Price Index, as published by the Bureau
5709 of Labor Statistics of the United States Department of Labor, that measures the average
5710 changes in prices of goods and services purchased by urban wage earners and clerical workers.

5711 (d) "Qualified claim or appeal" means a claim or appeal under any:

5712 (i) provision of the Social Security Act as defined in Section [67-11-2](#); or

5713 (ii) federal or state financial needs-based benefit program.

5714 (2) Pursuant to Standards for Privacy of Individually Identifiable Health Information,
5715 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or
5716 receive a copy of the patient's records from a health care provider when that health care
5717 provider is governed by the provisions of 45 C.F.R., Parts 160 and 164.

5718 (3) When a health care provider is not governed by Standards for Privacy of
5719 Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a
5720 patient's personal representative may inspect or receive a copy of the patient's records unless
5721 access to the records is restricted by law or judicial order.

5722 (4) A health care provider who provides a paper or electronic copy of a patient's
5723 records to the patient or the patient's personal representative:

5724 (a) shall provide the copy within the deadlines required by the Health Insurance
5725 Portability and Accountability Act of 1996, Administrative Simplification rule, 45 C.F.R. Sec.
5726 164.524(b); and

5727 (b) may charge a reasonable cost-based fee provided that the fee includes only the cost
5728 of:

5729 (i) copying, including the cost of supplies for and labor of copying; and

5730 (ii) postage, when the patient or patient's personal representative has requested the copy
5731 be mailed.

5732 (5) Except for records provided by a health care provider under Section [26-1-37]
5733 [26B-8-411](#), a health care provider who provides a copy of a patient's records to a patient's
5734 attorney, legal representative, or other third party authorized to receive records:
5735 (a) shall provide the copy within 30 days after receipt of notice; and
5736 (b) may charge a reasonable fee for paper or electronic copies, but may not exceed the
5737 following rates:
5738 (i) \$30 per request for locating a patient's records;
5739 (ii) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32
5740 cents per page for each additional page;
5741 (iii) the cost of postage when the requester has requested the copy be mailed;
5742 (iv) if requested, the health care provider will certify the record as a duplicate of the
5743 original for a fee of \$20; and
5744 (v) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.
5745 (6) Except for records provided under Section [~~26-1-37~~] [26B-8-411](#), a contracted third
5746 party service that provides medical records, other than a health care provider under Subsections
5747 (4) and (5), who provides a copy of a patient's records to a patient's attorney, legal
5748 representative, or other third party authorized to receive records:
5749 (a) shall provide the copy within 30 days after the request; and
5750 (b) may charge a reasonable fee for paper or electronic copies, but may not exceed the
5751 following rates:
5752 (i) \$30 per request for locating a patient's records;
5753 (ii) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32
5754 cents per page for each additional page;
5755 (iii) the cost of postage when the requester has requested the copy be mailed;
5756 (iv) if requested, the health care provider or the health care provider's contracted third
5757 party service will certify the record as a duplicate of the original for a fee of \$20; and
5758 (v) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.
5759 (7) A health care provider or the health care provider's contracted third party service
5760 shall deliver the medical records in the electronic medium customarily used by the health care
5761 provider or the health care provider's contracted third party service or in a universally readable
5762 image such as portable document format:

5763 (a) if the patient, patient's personal representative, or a third party authorized to receive
5764 the records requests the records be delivered in an electronic medium; and

5765 (b) the original medical record is readily producible in an electronic medium.

5766 (8) (a) Except as provided in Subsections (8)(b) and (c), the per page fee in Subsections
5767 (4), (5), and (6) applies to medical records reproduced electronically or on paper.

5768 (b) The per page fee for producing a copy of records in an electronic medium shall be
5769 50% of the per page fee otherwise provided in this section, regardless of whether the original
5770 medical records are stored in electronic format.

5771 (c) (i) A health care provider or a health care provider's contracted third party service
5772 shall deliver the medical records in the electronic medium customarily used by the health care
5773 provider or the health care provider's contracted third party service or in a universally readable
5774 image, such as portable document format, if the patient, patient's personal representative,
5775 patient's attorney, legal representative, or a third party authorized to receive the records,
5776 requests the records be delivered in an electronic medium.

5777 (ii) An entity providing requested information under Subsection (8)(c)(i):

5778 (A) shall provide the requested information within 30 days; and

5779 (B) may not charge a fee for the electronic copy that exceeds \$150 regardless of the
5780 number of pages and regardless of whether the original medical records are stored in electronic
5781 format.

5782 (9) (a) On January 1 of each year, the state treasurer shall adjust the following fees for
5783 inflation:

5784 (i) the fee for providing patient's records under:

5785 (A) Subsections (5)(b)(i) through (ii); and

5786 (B) Subsections (6)(b)(i) through (ii); and

5787 (ii) the maximum amount that may be charged for an electronic copy under Subsection
5788 (8)(c)(ii)(B).

5789 (b) On or before January 30 of each year, the state treasurer shall:

5790 (i) certify the inflation-adjusted fees and maximum amounts calculated under this
5791 section; and

5792 (ii) notify the Administrative Office of the Courts of the information described in
5793 Subsection (9)(b)(i) for posting on the court's website.

5794 (10) Notwithstanding Subsections (4) through (6), if a request for a medical record is
5795 accompanied by documentation of a qualified claim or appeal, a health care provider or the
5796 health care provider's contracted third party service:

5797 (a) may not charge a fee for the first copy of the record for each date of service that is
5798 necessary to support the qualified claim or appeal in each calendar year;

5799 (b) for a second or subsequent copy in a calendar year of a date of service that is
5800 necessary to support the qualified claim or appeal, may charge a reasonable fee that may not:

5801 (i) exceed 60 cents per page for paper photocopies;

5802 (ii) exceed a reasonable cost for copies of X-ray photographs and other health care
5803 records produced by similar processes;

5804 (iii) include an administrative fee or additional service fee related to the production of
5805 the medical record; or

5806 (iv) exceed the fee provisions for an electronic copy under Subsection (8)(c); and

5807 (c) shall provide the health record within 30 days after the day on which the request is
5808 received by the health care provider.

5809 (11) (a) Except as otherwise provided in Subsections (4) through (6), a health care
5810 provider or the health care provider's contracted third party service shall waive all fees under
5811 this section for an indigent individual.

5812 (b) A health care provider or the health care provider's contracted third party service
5813 may require the indigent individual or the indigent individual's authorized representative to
5814 provide proof that the individual is an indigent individual by executing an affidavit.

5815 (c) (i) An indigent individual that receives copies of a medical record at no charge
5816 under this Subsection (11) is limited to one copy for each date of service for each health care
5817 provider, or the health care provider's contracted third party service, in each calendar year.

5818 (ii) Any request for additional copies in addition to the one copy allowed under
5819 Subsection (11)(c) is subject to the fee provisions described in Subsection (10).

5820 (12) By January 1, 2023, a health care provider and all of the health care provider's
5821 contracted third party health related services shall accept a properly executed form described in
5822 [~~Title 26, Chapter 70, Standard Health Record Access Form~~] [Section 26B-8-514](#).

5823 Section 94. Section **78B-5-902** is amended to read:

5824 **78B-5-902. Definitions.**

5825 As used in this part:

5826 (1) "Communication" means an oral statement, written statement, note, record, report,
5827 or document made during, or arising out of, a meeting between a law enforcement officer,
5828 firefighter, emergency medical service provider, or rescue provider and a peer support team
5829 member.

5830 (2) "Behavioral emergency services technician" means an individual who is licensed
5831 under Section [~~26-8a-302~~] 26B-4-116 as:

5832 (a) a behavioral emergency services technician; or

5833 (b) an advanced behavioral emergency services technician.

5834 (3) "Emergency medical service provider or rescue unit peer support team member"

5835 means a person who is:

5836 (a) an emergency medical service provider as defined in Section [~~26-8a-102~~]
5837 26B-4-101, a regular or volunteer member of a rescue unit acting as an emergency responder as
5838 defined in Section 53-2a-502, or another person who has been trained in peer support skills;
5839 and

5840 (b) designated by the chief executive of an emergency medical service agency or the
5841 chief of a rescue unit as a member of an emergency medical service provider's peer support
5842 team or as a member of a rescue unit's peer support team.

5843 (4) "Law enforcement or firefighter peer support team member" means a person who
5844 is:

5845 (a) a peace officer, law enforcement dispatcher, civilian employee, or volunteer
5846 member of a law enforcement agency, a regular or volunteer member of a fire department, or
5847 another person who has been trained in peer support skills; and

5848 (b) designated by the commissioner of the Department of Public Safety, the executive
5849 director of the Department of Corrections, a sheriff, a police chief, or a fire chief as a member
5850 of a law enforcement agency's peer support team or a fire department's peer support team.

5851 (5) "Trained" means a person who has successfully completed a peer support training
5852 program approved by the Peace Officer Standards and Training Division, the State Fire
5853 Marshal's Office, or the Department of Health and Human Services, as applicable.

5854 Section 95. Section **78B-5-904** is amended to read:

5855 **78B-5-904. Exclusions for certain communications.**

5856 In accordance with the Utah Rules of Evidence, a behavioral emergency services
5857 technician may refuse to disclose communications made by an individual during the delivery of
5858 behavioral emergency services as defined in Section [~~26-8a-102~~] 26B-4-101.

5859 Section 96. Section **78B-6-103** is amended to read:

5860 **78B-6-103. Definitions.**

5861 As used in this part:

5862 (1) "Adoptee" means a person who:

5863 (a) is the subject of an adoption proceeding; or

5864 (b) has been legally adopted.

5865 (2) "Adoption" means the judicial act that:

5866 (a) creates the relationship of parent and child where it did not previously exist; and

5867 (b) except as provided in Subsections 78B-6-138(2) and (4), terminates the parental

5868 rights of any other person with respect to the child.

5869 (3) "Adoption document" means an adoption-related document filed with the office, a

5870 petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted

5871 in support of a supplementary birth certificate.

5872 (4) "Adoption service provider" means:

5873 (a) a child-placing agency;

5874 (b) a licensed counselor who has at least one year of experience providing professional

5875 social work services to:

5876 (i) adoptive parents;

5877 (ii) prospective adoptive parents; or

5878 (iii) birth parents; or

5879 (c) the Office of Licensing within the Department of [~~Human Services~~] Health and

5880 Human Services.

5881 (5) "Adoptive parent" means an individual who has legally adopted an adoptee.

5882 (6) "Adult" means an individual who is 18 years of age or older.

5883 (7) "Adult adoptee" means an adoptee who is 18 years of age or older and was adopted

5884 as a minor.

5885 (8) "Adult sibling" means an adoptee's brother or sister, who is 18 years of age or older

5886 and whose birth mother or father is the same as that of the adoptee.

- 5887 (9) "Birth mother" means the biological mother of a child.
- 5888 (10) "Birth parent" means:
- 5889 (a) a birth mother;
- 5890 (b) a man whose paternity of a child is established;
- 5891 (c) a man who:
- 5892 (i) has been identified as the father of a child by the child's birth mother; and
- 5893 (ii) has not denied paternity; or
- 5894 (d) an unmarried biological father.
- 5895 (11) "Child-placing agency" means an agency licensed to place children for adoption
- 5896 under [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1,
- 5897 Human Services Programs and Facilities.
- 5898 (12) "Cohabiting" means residing with another person and being involved in a sexual
- 5899 relationship with that person.
- 5900 (13) "Division" means the Division of Child and Family Services, within the
- 5901 Department of [~~Human Services~~] Health and Human Services, created in Section [80-2-201](#).
- 5902 (14) "Extra-jurisdictional child-placing agency" means an agency licensed to place
- 5903 children for adoption by a district, territory, or state of the United States, other than Utah.
- 5904 (15) "Genetic and social history" means a comprehensive report, when obtainable, that
- 5905 contains the following information on an adoptee's birth parents, aunts, uncles, and
- 5906 grandparents:
- 5907 (a) medical history;
- 5908 (b) health status;
- 5909 (c) cause of and age at death;
- 5910 (d) height, weight, and eye and hair color;
- 5911 (e) ethnic origins;
- 5912 (f) where appropriate, levels of education and professional achievement; and
- 5913 (g) religion, if any.
- 5914 (16) "Health history" means a comprehensive report of the adoptee's health status at the
- 5915 time of placement for adoption, and medical history, including neonatal, psychological,
- 5916 physiological, and medical care history.
- 5917 (17) "Identifying information" means information that is in the possession of the office

5918 and that contains the name and address of a pre-existing parent or an adult adoptee, or other
5919 specific information that by itself or in reasonable conjunction with other information may be
5920 used to identify a pre-existing parent or an adult adoptee, including information on a birth
5921 certificate or in an adoption document.

5922 (18) "Licensed counselor" means an individual who is licensed by the state, or another
5923 state, district, or territory of the United States as a:

5924 (a) certified social worker;

5925 (b) clinical social worker;

5926 (c) psychologist;

5927 (d) marriage and family therapist;

5928 (e) clinical mental health counselor; or

5929 (f) an equivalent licensed professional of another state, district, or territory of the
5930 United States.

5931 (19) "Man" means a male individual, regardless of age.

5932 (20) "Mature adoptee" means an adoptee who is adopted when the adoptee is an adult.

5933 (21) "Office" means the Office of Vital Records and Statistics within the Department
5934 of ~~[Health]~~ Health and Human Services operating under ~~[Title 26, Chapter 2, Utah Vital~~
5935 ~~Statistics Act]~~ Title 26B, Chapter 8, Part 1, Vital Statistics.

5936 (22) "Parent," for purposes of Section [78B-6-119](#), means any person described in
5937 Subsections [78B-6-120](#)(1)(b) through (f) from whom consent for adoption or relinquishment
5938 for adoption is required under Sections [78B-6-120](#) through [78B-6-122](#).

5939 (23) "Potential birth father" means a man who:

5940 (a) is identified by a birth mother as a potential biological father of the birth mother's
5941 child, but whose genetic paternity has not been established; and

5942 (b) was not married to the biological mother of the child described in Subsection
5943 (23)(a) at the time of the child's conception or birth.

5944 (24) "Pre-existing parent" means:

5945 (a) a birth parent; or

5946 (b) an individual who, before an adoption decree is entered, is, due to an earlier
5947 adoption decree, legally the parent of the child being adopted.

5948 (25) "Prospective adoptive parent" means an individual who seeks to adopt an adoptee.

5949 (26) "Relative" means:

5950 (a) an adult who is a grandparent, great grandparent, aunt, great aunt, uncle, great
5951 uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, sibling of a child, or
5952 first cousin of a child's parent; and

5953 (b) in the case of a child defined as an "Indian child" under the Indian Child Welfare
5954 Act, 25 U.S.C. Sec. 1903, an "extended family member" as defined by that statute.

5955 (27) "Unmarried biological father" means a man who:

5956 (a) is the biological father of a child; and

5957 (b) was not married to the biological mother of the child described in Subsection
5958 (27)(a) at the time of the child's conception or birth.

5959 Section 97. Section **78B-6-113** is amended to read:

5960 **78B-6-113. Prospective adoptive parent not a resident -- Preplacement**
5961 **requirements.**

5962 (1) When an adoption petition is to be finalized in this state with regard to any
5963 prospective adoptive parent who is not a resident of this state at the time a child is placed in
5964 that person's home, the prospective adoptive parent shall comply with the provisions of
5965 Sections [78B-6-128](#) and [78B-6-130](#).

5966 (2) Except as provided in Subsection [78B-6-131\(2\)](#), in addition to the other
5967 requirements of this section, before a child in state custody is placed with a prospective foster
5968 parent or a prospective adoptive parent, the Department of [~~Human Services~~] Health and
5969 Human Services shall comply with Section [78B-6-131](#).

5970 Section 98. Section **78B-6-124** is amended to read:

5971 **78B-6-124. Persons who may take consents and relinquishments.**

5972 (1) A consent or relinquishment by a birth mother or an adoptee shall be signed before:

5973 (a) a judge of any court that has jurisdiction over adoption proceedings;

5974 (b) subject to Subsection (6), a person appointed by the judge described in Subsection
5975 (1)(a) to take consents or relinquishments; or

5976 (c) subject to Subsection (6), a person who is authorized by a child-placing agency to
5977 take consents or relinquishments, if the consent or relinquishment grants legal custody of the
5978 child to a child-placing agency or an extra-jurisdictional child-placing agency.

5979 (2) If the consent or relinquishment of a birth mother or adoptee is taken out of state it

5980 shall be signed before:

5981 (a) subject to Subsection (6), a person who is authorized by a child-placing agency to
5982 take consents or relinquishments, if the consent or relinquishment grants legal custody of the
5983 child to a child-placing agency or an extra-jurisdictional child-placing agency;

5984 (b) subject to Subsection (6), a person authorized or appointed to take consents or
5985 relinquishments by a court of this state that has jurisdiction over adoption proceedings;

5986 (c) a court that has jurisdiction over adoption proceedings in the state where the
5987 consent or relinquishment is taken; or

5988 (d) a person authorized, under the laws of the state where the consent or relinquishment
5989 is taken, to take consents or relinquishments of a birth mother or adoptee.

5990 (3) The consent or relinquishment of any other person or agency as required by Section
5991 [78B-6-120](#) may be signed before a Notary Public or any person authorized to take a consent or
5992 relinquishment under Subsection (1) or (2).

5993 (4) A person, authorized by Subsection (1) or (2) to take consents or relinquishments,
5994 shall certify to the best of his information and belief that the person executing the consent or
5995 relinquishment has read and understands the consent or relinquishment and has signed it freely
5996 and voluntarily.

5997 (5) A person executing a consent or relinquishment is entitled to receive a copy of the
5998 consent or relinquishment.

5999 (6) A signature described in Subsection (1)(b), (1)(c), (2)(a), or (2)(b), shall be:

6000 (a) notarized; or

6001 (b) witnessed by two individuals who are not members of the birth mother's or the
6002 adoptee's immediate family.

6003 (7) Except as provided in Subsection [~~62A-2-108.6(2)~~] [26B-2-127\(2\)](#), a transfer of
6004 relinquishment from one child-placing agency to another child-placing agency shall be signed
6005 before a Notary Public.

6006 Section 99. Section **78B-6-128** is amended to read:

6007 **78B-6-128. Preplacement adoptive evaluations -- Exceptions.**

6008 (1) (a) Except as otherwise provided in this section, a child may not be placed in an
6009 adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive
6010 parent and the prospective adoptive home, has been conducted in accordance with the

6011 requirements of this section.

6012 (b) Except as provided in Section [78B-6-131](#), the court may, at any time, authorize
6013 temporary placement of a child in a prospective adoptive home pending completion of a
6014 preplacement adoptive evaluation described in this section.

6015 (c) (i) Subsection (1)(a) does not apply if a pre-existing parent has legal custody of the
6016 child to be adopted and the prospective adoptive parent is related to that child or the
6017 pre-existing parent as a stepparent, sibling by half or whole blood or by adoption, grandparent,
6018 aunt, uncle, or first cousin, unless the court otherwise requests the preplacement adoption.

6019 (ii) The prospective adoptive parent described in this Subsection (1)(c) shall obtain the
6020 information described in Subsections (2)(a) and (b), and file that documentation with the court
6021 prior to finalization of the adoption.

6022 (d) (i) The preplacement adoptive evaluation shall be completed or updated within the
6023 12-month period immediately preceding the placement of a child with the prospective adoptive
6024 parent.

6025 (ii) If the prospective adoptive parent has previously received custody of a child for the
6026 purpose of adoption, the preplacement adoptive evaluation shall be completed or updated
6027 within the 12-month period immediately preceding the placement of a child with the
6028 prospective adoptive parent and after the placement of the previous child with the prospective
6029 adoptive parent.

6030 (2) The preplacement adoptive evaluation shall include:

6031 (a) a criminal history background check regarding each prospective adoptive parent
6032 and any other adult living in the prospective home, prepared no earlier than 18 months
6033 immediately preceding placement of the child in accordance with the following:

6034 (i) if the child is in state custody, each prospective adoptive parent and any other adult
6035 living in the prospective home shall submit fingerprints to the Department of [~~Human Services~~]
6036 Health and Human Services, which shall perform a criminal history background check in
6037 accordance with Section [~~62A-2-120~~] [26B-2-120](#); or

6038 (ii) subject to Subsection (3), if the child is not in state custody, an adoption service
6039 provider or an attorney representing a prospective adoptive parent shall submit fingerprints
6040 from the prospective adoptive parent and any other adult living in the prospective home to the
6041 Criminal and Technical Services Division of Public Safety for a regional and nationwide

6042 background check, to the Office of Licensing within the Department of [~~Human Services~~]
6043 Health and Human Services for a background check in accordance with Section [~~62A-2-120~~]
6044 26B-2-120, or to the Federal Bureau of Investigation;

6045 (b) a report containing all information regarding reports and investigations of child
6046 abuse, neglect, and dependency, with respect to each prospective adoptive parent and any other
6047 adult living in the prospective home, obtained no earlier than 18 months immediately preceding
6048 the day on which the child is placed in the prospective home, pursuant to waivers executed by
6049 each prospective adoptive parent and any other adult living in the prospective home, that:

6050 (i) if the prospective adoptive parent or the adult living in the prospective adoptive
6051 parent's home is a resident of Utah, is prepared by the Department of [~~Human Services~~] Health
6052 and Human Services from the records of the Department of [~~Human Services~~] Health and
6053 Human Services; or

6054 (ii) if the prospective adoptive parent or the adult living in the prospective adoptive
6055 parent's home is not a resident of Utah, prepared by the Department of [~~Human Services~~]
6056 Health and Human Services, or a similar agency in another state, district, or territory of the
6057 United States, where each prospective adoptive parent and any other adult living in the
6058 prospective home resided in the five years immediately preceding the day on which the child is
6059 placed in the prospective adoptive home;

6060 (c) in accordance with Subsection (6), a home study conducted by an adoption service
6061 provider that is:

6062 (i) an expert in family relations approved by the court;

6063 (ii) a certified social worker;

6064 (iii) a clinical social worker;

6065 (iv) a marriage and family therapist;

6066 (v) a psychologist;

6067 (vi) a social service worker, if supervised by a certified or clinical social worker;

6068 (vii) a clinical mental health counselor; or

6069 (viii) an Office of Licensing employee within the Department of [~~Human Services~~]
6070 Health and Human Services who is trained to perform a home study; and

6071 (d) in accordance with Subsection (7), if the child to be adopted is a child who is in the
6072 custody of any public child welfare agency, and is a child who has a special need as defined in

6073 Section 80-2-801, the preplacement adoptive evaluation shall be conducted by the Department
6074 of [~~Human Services~~] Health and Human Services or a child-placing agency that has entered
6075 into a contract with the department to conduct the preplacement adoptive evaluations for
6076 children with special needs.

6077 (3) For purposes of Subsection (2)(a)(ii), subject to Subsection (4), the criminal history
6078 background check described in Subsection (2)(a)(ii) shall be submitted in a manner acceptable
6079 to the court that will:

6080 (a) preserve the chain of custody of the results; and

6081 (b) not permit tampering with the results by a prospective adoptive parent or other
6082 interested party.

6083 (4) In order to comply with Subsection (3), the manner in which the criminal history
6084 background check is submitted shall be approved by the court.

6085 (5) Except as provided in Subsection 78B-6-131(2), in addition to the other
6086 requirements of this section, before a child in state custody is placed with a prospective foster
6087 parent or a prospective adoptive parent, the Department of [~~Human Services~~] Health and
6088 Human Services shall comply with Section 78B-6-131.

6089 (6) (a) An individual described in Subsections (2)(c)(i) through (vii) shall be licensed
6090 to practice under the laws of:

6091 (i) this state; or

6092 (ii) the state, district, or territory of the United States where the prospective adoptive
6093 parent or other person living in the prospective adoptive home resides.

6094 (b) Neither the Department of [~~Human Services~~] Health and Human Services nor any
6095 of the department's divisions may proscribe who qualifies as an expert in family relations or
6096 who may conduct a home study under Subsection (2)(c).

6097 (c) The home study described in Subsection (2)(c) shall be a written document that
6098 contains the following:

6099 (i) a recommendation to the court regarding the suitability of the prospective adoptive
6100 parent for placement of a child;

6101 (ii) a description of in-person interviews with the prospective adoptive parent, the
6102 prospective adoptive parent's children, and other individuals living in the home;

6103 (iii) a description of character and suitability references from at least two individuals

6104 who are not related to the prospective adoptive parent and with at least one individual who is
6105 related to the prospective adoptive parent;

6106 (iv) a medical history and a doctor's report, based upon a doctor's physical examination
6107 of the prospective adoptive parent, made within two years before the date of the application;
6108 and

6109 (v) a description of an inspection of the home to determine whether sufficient space
6110 and facilities exist to meet the needs of the child and whether basic health and safety standards
6111 are maintained.

6112 (7) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the
6113 responsibility of the adopting parent.

6114 (8) The person conducting the preplacement adoptive evaluation shall, in connection
6115 with the preplacement adoptive evaluation, provide the prospective adoptive parent with
6116 literature approved by the Division of Child and Family Services relating to adoption, including
6117 information relating to:

6118 (a) the adoption process;

6119 (b) developmental issues that may require early intervention; and

6120 (c) community resources that are available to the prospective adoptive parent.

6121 (9) A copy of the preplacement adoptive evaluation shall be filed with the court.

6122 Section 100. Section **78B-6-131** is amended to read:

6123 **78B-6-131. Child in custody of state -- Placement.**

6124 (1) Notwithstanding Sections [78B-6-128](#) through [78B-6-130](#), and except as provided in
6125 Subsection (2), a child who is in the legal custody of the state may not be placed with a
6126 prospective foster parent or a prospective adoptive parent, unless, before the child is placed
6127 with the prospective foster parent or the prospective adoptive parent:

6128 (a) a fingerprint based FBI national criminal history records check is conducted on the
6129 prospective foster parent, prospective adoptive parent, and any other adult residing in the
6130 household;

6131 (b) the Department of [~~Human Services~~] Health and Human Services conducts a check
6132 of the child abuse and neglect registry in each state where the prospective foster parent or
6133 prospective adoptive parent resided in the five years immediately preceding the day on which
6134 the prospective foster parent or prospective adoptive parent applied to be a foster parent or

6135 adoptive parent, to determine whether the prospective foster parent or prospective adoptive
6136 parent is listed in the registry as having a substantiated or supported finding of child abuse or
6137 neglect;

6138 (c) the Department of [~~Human Services~~] Health and Human Services conducts a check
6139 of the child abuse and neglect registry of each state where each adult living in the home of the
6140 prospective foster parent or prospective adoptive parent described in Subsection (1)(b) resided
6141 in the five years immediately preceding the day on which the prospective foster parent or
6142 prospective adoptive parent applied to be a foster parent or adoptive parent, to determine
6143 whether the adult is listed in the registry as having a substantiated or supported finding of child
6144 abuse or neglect; and

6145 (d) each person required to undergo a background check described in this section
6146 passes the background check, pursuant to the provisions of Section [~~62A-2-120~~] 26B-2-120.

6147 (2) The requirements under Subsection (1) do not apply to the extent that:

6148 (a) federal law or rule permits otherwise; or

6149 (b) the requirements would prohibit the division or a court from placing a child with:

6150 (i) a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303; or

6151 (ii) a relative, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of
6152 the background check described in Subsection (1).

6153 Section 101. Section **78B-6-142** is amended to read:

6154 **78B-6-142. Adoption order from foreign country.**

6155 (1) Except as otherwise provided by federal law, an adoption order rendered to a
6156 resident of this state that is made by a foreign country shall be recognized by the courts of this
6157 state and enforced as if the order were rendered by a court in this state.

6158 (2) A person who adopts a child in a foreign country may register the order in this state.

6159 A petition for registration of a foreign adoption order may be combined with a petition for a
6160 name change. If the court finds that the foreign adoption order meets the requirements of
6161 Subsection (1), the court shall order the state registrar to:

6162 (a) file the order pursuant to Section 78B-6-137; and

6163 (b) file a certificate of birth for the child pursuant to Section [~~26-2-28~~] 26B-8-131.

6164 (3) If a clerk of the court is unable to establish the fact, time, and place of birth from
6165 the documentation provided, a person holding a direct, tangible, and legitimate interest as

6166 described in Subsection [~~26-2-22(3)(a) or (b)~~] 26B-8-125(3)(a) or (b) may petition for a court
6167 order establishing the fact, time, and place of a birth pursuant to Subsection [~~26-2-15(1)~~]
6168 26B-8-119.

6169 Section 102. Section **78B-7-205** is amended to read:

6170 **78B-7-205. Service -- Income withholding -- Expiration.**

6171 (1) If the court enters an ex parte child protective order or a child protective order, the
6172 court shall:

6173 (a) make reasonable efforts to ensure that the order is understood by the petitioner and
6174 the respondent, if present;

6175 (b) as soon as possible transmit the order to the county sheriff for service; and

6176 (c) by the end of the next business day after the order is entered, transmit electronically
6177 a copy of the order to any law enforcement agency designated by the petitioner and to the
6178 statewide domestic violence network described in Section 78B-7-113.

6179 (2) The county sheriff shall serve the order and transmit verification of service to the
6180 statewide domestic violence network described in Section 78B-7-113 in an expeditious
6181 manner. Any law enforcement agency may serve the order and transmit verification of service
6182 to the statewide domestic violence network if the law enforcement agency has contact with the
6183 respondent or if service by that law enforcement agency is in the best interests of the child.

6184 (3) When an order is served on a respondent in a jail, prison, or other holding facility,
6185 the law enforcement agency managing the facility shall notify the petitioner of the respondent's
6186 release. Notice to the petitioner consists of a prompt, good faith effort to provide notice,
6187 including mailing the notice to the petitioner's last-known address.

6188 (4) Child support orders issued as part of a child protective order are subject to
6189 mandatory income withholding under [~~Title 62A, Chapter 11, Part 4, Income Withholding in
6190 IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases~~] Title
6191 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4,
6192 Income Withholding in Non IV-D Cases.

6193 (5) (a) A child protective order issued against a respondent who is a parent, stepparent,
6194 guardian, or custodian of the child who is the subject of the order expires 150 days after the day
6195 on which the order is issued unless a different date is set by the court.

6196 (b) The court may not set a date on which a child protective order described in

6197 Subsection (5)(a) expires that is more than 150 days after the day on which the order is issued
6198 without a finding of good cause.

6199 (c) The court may review and extend the expiration date of a child protective order
6200 described in Subsection (5)(a), but may not extend the expiration date more than 150 days after
6201 the day on which the order is issued without a finding of good cause.

6202 (d) Notwithstanding Subsections (5)(a) through (c), a child protective order is not
6203 effective after the day on which the child who is the subject of the order turns 18 years old and
6204 the court may not extend the expiration date of a child protective order to a date after the day
6205 on which the child who is the subject of the order turns 18 years old.

6206 (6) A child protective order issued against a respondent who is not a parent, stepparent,
6207 guardian, or custodian of the child who is the subject of the order expires on the day on which
6208 the child turns 18 years old.

6209 Section 103. Section **78B-7-603** is amended to read:

6210 **78B-7-603. Cohabitant abuse protective orders -- Ex parte cohabitant abuse**
6211 **protective orders -- Modification of orders -- Service of process -- Duties of the court.**

6212 (1) If it appears from a petition for a protective order or a petition to modify a
6213 protective order that domestic violence or abuse has occurred, that there is a substantial
6214 likelihood domestic violence or abuse will occur, or that a modification of a protective order is
6215 required, a court may:

6216 (a) without notice, immediately issue an ex parte cohabitant abuse protective order or
6217 modify a protective order ex parte as the court considers necessary to protect the petitioner and
6218 all parties named to be protected in the petition; or

6219 (b) upon notice, issue a protective order or modify an order after a hearing, regardless
6220 of whether the respondent appears.

6221 (2) A court may grant the following relief without notice in a protective order or a
6222 modification issued ex parte:

6223 (a) enjoin the respondent from threatening to commit domestic violence or abuse,
6224 committing domestic violence or abuse, or harassing the petitioner or any designated family or
6225 household member;

6226 (b) prohibit the respondent from telephoning, contacting, or otherwise communicating
6227 with the petitioner or any designated family or household member, directly or indirectly, with

6228 the exception of any parent-time provisions in the ex parte order;

6229 (c) subject to Subsection (2)(e), prohibit the respondent from being within a specified

6230 distance of the petitioner;

6231 (d) subject to Subsection (2)(e), order that the respondent is excluded from and is to

6232 stay away from the following places and their premises:

6233 (i) the petitioner's residence or any designated family or household member's residence;

6234 (ii) the petitioner's school or any designated family or household member's school;

6235 (iii) the petitioner's or any designated family or household member's place of

6236 employment;

6237 (iv) the petitioner's place of worship or any designated family or household member's

6238 place of worship; or

6239 (v) any specified place frequented by the petitioner or any designated family or

6240 household member;

6241 (e) if the petitioner or designated family or household member attends the same school

6242 as the respondent, is employed at the same place of employment as the respondent, or attends

6243 the same place of worship, the court:

6244 (i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent

6245 from the respondent's school, place of employment, or place of worship; and

6246 (ii) may enter an order governing the respondent's conduct at the respondent's school,

6247 place of employment, or place of worship;

6248 (f) upon finding that the respondent's use or possession of a weapon may pose a serious

6249 threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a

6250 firearm or other weapon specified by the court;

6251 (g) order possession and use of an automobile and other essential personal effects, and

6252 direct the appropriate law enforcement officer to accompany the petitioner to the residence of

6253 the parties to ensure that the petitioner is safely restored to possession of the residence,

6254 automobile, and other essential personal effects, or to supervise the petitioner's or respondent's

6255 removal of personal belongings;

6256 (h) order the respondent to maintain an existing wireless telephone contract or account;

6257 (i) grant to the petitioner or someone other than the respondent temporary custody of a

6258 minor child of the parties;

6259 (j) order the appointment of an attorney guardian ad litem under Sections 78A-2-703
6260 and 78A-2-803;

6261 (k) prohibit the respondent from physically injuring, threatening to injure, or taking
6262 possession of a household animal that is owned or kept by the petitioner;

6263 (l) prohibit the respondent from physically injuring or threatening to injure a household
6264 animal that is owned or kept by the respondent;

6265 (m) order any further relief that the court considers necessary to provide for the safety
6266 and welfare of the petitioner and any designated family or household member; and

6267 (n) if the petition requests child support or spousal support, at the hearing on the
6268 petition order both parties to provide verification of current income, including year-to-date pay
6269 stubs or employer statements of year-to-date or other period of earnings, as specified by the
6270 court, and complete copies of tax returns from at least the most recent year.

6271 (3) A court may grant the following relief in a cohabitant abuse protective order or a
6272 modification of an order after notice and hearing, regardless of whether the respondent appears:

6273 (a) grant the relief described in Subsection (2); and

6274 (b) specify arrangements for parent-time of any minor child by the respondent and
6275 require supervision of that parent-time by a third party or deny parent-time if necessary to
6276 protect the safety of the petitioner or child.

6277 (4) In addition to the relief granted under Subsection (3), the court may order the
6278 transfer of a wireless telephone number in accordance with Section 78B-7-117.

6279 (5) Following the cohabitant abuse protective order hearing, the court shall:

6280 (a) as soon as possible, deliver the order to the county sheriff for service of process;

6281 (b) make reasonable efforts to ensure that the cohabitant abuse protective order is
6282 understood by the petitioner, and the respondent, if present;

6283 (c) transmit electronically, by the end of the next business day after the order is issued,
6284 a copy of the cohabitant abuse protective order to the local law enforcement agency or agencies
6285 designated by the petitioner;

6286 (d) transmit a copy of the order to the statewide domestic violence network described
6287 in Section 78B-7-113; and

6288 (e) if the individual is a respondent or defendant subject to a court order that meets the
6289 qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours, excluding

6290 Saturdays, Sundays, and legal holidays, a record of the order to the Bureau of Criminal
6291 Identification that includes:

- 6292 (i) an agency record identifier;
- 6293 (ii) the individual's name, sex, race, and date of birth;
- 6294 (iii) the issue date, conditions, and expiration date for the protective order; and
- 6295 (iv) if available, the individual's social security number, government issued driver
6296 license or identification number, alien registration number, government passport number, state
6297 identification number, or FBI number.

6298 (6) Each protective order shall include two separate portions, one for provisions, the
6299 violation of which are criminal offenses, and one for provisions, the violation of which are civil
6300 offenses, as follows:

- 6301 (a) criminal offenses are those under Subsections (2)(a) through (g), and under
6302 Subsection (3)(a) as it refers to Subsections (2)(a) through (g); and
- 6303 (b) civil offenses are those under Subsections (2)(h) through (l), Subsection (3)(a) as it
6304 refers to Subsections (2)(h) through (l), and Subsection (3)(b).

6305 (7) Child support and spouse support orders issued as part of a protective order are
6306 subject to mandatory income withholding under [~~Title 62A, Chapter 11, Part 4, Income~~
6307 ~~Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non~~
6308 ~~IV-D Cases] Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B,
6309 Chapter 9, Part 4, Income Withholding in Non IV-D Cases, except when the protective order is
6310 issued ex parte.~~

6311 (8) (a) The county sheriff that receives the order from the court, under Subsection (5),
6312 shall provide expedited service for protective orders issued in accordance with this part, and
6313 shall transmit verification of service of process, when the order has been served, to the
6314 statewide domestic violence network described in Section [78B-7-113](#).

6315 (b) This section does not prohibit any law enforcement agency from providing service
6316 of process if that law enforcement agency:

- 6317 (i) has contact with the respondent and service by that law enforcement agency is
6318 possible; or
- 6319 (ii) determines that under the circumstances, providing service of process on the
6320 respondent is in the best interests of the petitioner.

6321 (9) (a) When an order is served on a respondent in a jail or other holding facility, the
6322 law enforcement agency managing the facility shall make a reasonable effort to provide notice
6323 to the petitioner at the time the respondent is released from incarceration.

6324 (b) Notification of the petitioner shall consist of a good faith reasonable effort to
6325 provide notification, including mailing a copy of the notification to the last-known address of
6326 the victim.

6327 (10) A court may modify or vacate a protective order or any provisions in the
6328 protective order after notice and hearing, except that the criminal provisions of a cohabitant
6329 abuse protective order may not be vacated within two years of issuance unless the petitioner:

6330 (a) is personally served with notice of the hearing, as provided in the Utah Rules of
6331 Civil Procedure, and the petitioner personally appears, in person or through court video
6332 conferencing, before the court and gives specific consent to the vacation of the criminal
6333 provisions of the cohabitant abuse protective order; or

6334 (b) submits a verified affidavit, stating agreement to the vacation of the criminal
6335 provisions of the cohabitant abuse protective order.

6336 (11) A protective order may be modified without a showing of substantial and material
6337 change in circumstances.

6338 (12) A civil provision of a protective order described in Subsection (6) may be
6339 dismissed or modified at any time in a divorce, parentage, custody, or guardianship proceeding
6340 that is pending between the parties to the protective order action if:

6341 (a) the parties stipulate in writing or on the record to dismiss or modify a civil
6342 provision of the protective order; or

6343 (b) the court in the divorce, parentage, custody, or guardianship proceeding finds good
6344 cause to dismiss or modify the civil provision.

6345 Section 104. Section **78B-8-401** is amended to read:

6346 **78B-8-401. Definitions.**

6347 As used in this part:

6348 (1) "Blood or contaminated body fluids" includes blood, saliva, amniotic fluid,
6349 pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and
6350 vaginal secretions, and any body fluid visibly contaminated with blood.

6351 (2) "COVID-19" means the same as that term is defined in Section [78B-4-517](#).

6352 (3) "Disease" means Human Immunodeficiency Virus infection, acute or chronic
6353 Hepatitis B infection, Hepatitis C infection, COVID-19 or another infectious disease that may
6354 cause Severe Acute Respiratory Syndrome, and any other infectious disease specifically
6355 designated by the Labor Commission, in consultation with the Department of ~~Health~~ Health
6356 and Human Services, for the purposes of this part.

6357 (4) "Emergency services provider" means:

6358 (a) an individual licensed under Section ~~[26-8a-302]~~ 26B-4-116, a peace officer, local
6359 fire department personnel, or personnel employed by the Department of Corrections or by a
6360 county jail, who provide prehospital emergency care for an emergency services provider either
6361 as an employee or as a volunteer; or

6362 (b) an individual who provides for the care, control, support, or transport of a prisoner.

6363 (5) "First aid volunteer" means a person who provides voluntary emergency assistance
6364 or first aid medical care to an injured person prior to the arrival of an emergency medical
6365 services provider or peace officer.

6366 (6) "Health care provider" means the same as that term is defined in Section
6367 78B-3-403.

6368 (7) "Medical testing procedure" means a nasopharyngeal swab, a nasal swab, a
6369 capillary blood sample, a saliva test, or a blood draw.

6370 (8) "Peace officer" means the same as that term is defined in Section 53-1-102.

6371 (9) "Prisoner" means the same as that term is defined in Section 76-5-101.

6372 (10) "Significant exposure" and "significantly exposed" mean:

6373 (a) exposure of the body of one individual to the blood or body fluids of another
6374 individual by:

6375 (i) percutaneous injury, including a needle stick, cut with a sharp object or instrument,
6376 or a wound resulting from a human bite, scratch, or similar force; or

6377 (ii) contact with an open wound, mucous membrane, or nonintact skin because of a cut,
6378 abrasion, dermatitis, or other damage;

6379 (b) exposure of the body of one individual to the body fluids, including airborne
6380 droplets, of another individual if:

6381 (i) the other individual displays symptoms known to be associated with COVID-19 or
6382 another infectious disease that may cause Severe Acute Respiratory Syndrome; or

6383 (ii) other evidence exists that would lead a reasonable person to believe that the other
6384 individual may be infected with COVID-19 or another infectious disease that may cause Severe
6385 Acute Respiratory Syndrome; or

6386 (c) exposure that occurs by any other method of transmission defined by the Labor
6387 Commission, in consultation with the Department of [~~Health~~] Health and Human Services, as a
6388 significant exposure.

6389 Section 105. Section **78B-8-402** is amended to read:

6390 **78B-8-402. Petition -- Disease testing -- Notice -- Payment for testing.**

6391 (1) An emergency services provider or first aid volunteer who is significantly exposed
6392 during the course of performing the emergency services provider's duties or during the course
6393 of performing emergency assistance or first aid, or a health care provider acting in the course
6394 and scope of the health care provider's duties as a health care provider may:

6395 (a) request that the person to whom the emergency services provider, first aid
6396 volunteer, or health care provider was significantly exposed voluntarily submit to testing; or

6397 (b) petition the district court or a magistrate for an order requiring that the person to
6398 whom the emergency services provider, first aid volunteer, or health care provider was
6399 significantly exposed submit to testing to determine the presence of a disease and that the
6400 results of that test be disclosed to the petitioner by the Department of [~~Health~~] Health and
6401 Human Services.

6402 (2) (a) A law enforcement agency may submit on behalf of the petitioner by electronic
6403 or other means an ex parte request for a warrant ordering a medical testing procedure of the
6404 respondent.

6405 (b) The court or magistrate shall issue a warrant ordering the respondent to submit to a
6406 medical testing procedure within two hours, and that reasonable force may be used, if
6407 necessary, if the court or magistrate finds that:

6408 (i) the petitioner was significantly exposed during the course of performing the
6409 petitioner's duties as an emergency services provider, first aid volunteer, or health care
6410 provider;

6411 (ii) the respondent refused to give consent to the medical testing procedure or is unable
6412 to give consent;

6413 (iii) there may not be an opportunity to obtain a sample at a later date; and

6414 (iv) a delay in administering available FDA-approved post-exposure treatment or
6415 prophylaxis could result in a lack of effectiveness of the treatment or prophylaxis.

6416 (c) (i) If the petitioner requests that the court order the respondent to submit to a blood
6417 draw, the petitioner shall request a person authorized under Section [41-6a-523](#) to perform the
6418 blood draw.

6419 (ii) If the petitioner requests that the court order the respondent to submit to a medical
6420 testing procedure, other than a blood draw, the petitioner shall request that a qualified medical
6421 professional, including a physician, a physician's assistant, a registered nurse, a licensed
6422 practical nurse, or a paramedic, perform the medical testing procedure.

6423 (d) (i) A sample drawn in accordance with a warrant following an ex parte request shall
6424 be sent to the Department of [~~Health~~] Health and Human Services for testing.

6425 (ii) If the Department of [~~Health~~] Health and Human Services is unable to perform a
6426 medical testing procedure ordered by the court under this section, a qualified medical
6427 laboratory may perform the medical testing procedure if:

6428 (A) the Department of [~~Health~~] Health and Human Services requests that the medical
6429 laboratory perform the medical testing procedure; and

6430 (B) the result of the medical testing procedure is provided to the Department of
6431 [~~Health~~] Health and Human Services.

6432 (3) If a petitioner does not seek or obtain a warrant pursuant to Subsection (2), the
6433 petitioner may file a petition with the district court seeking an order to submit to testing and to
6434 disclose the results in accordance with this section.

6435 (4) (a) The petition described in Subsection (3) shall be accompanied by an affidavit in
6436 which the petitioner certifies that the petitioner has been significantly exposed to the individual
6437 who is the subject of the petition and describes that exposure.

6438 (b) The petitioner shall submit to testing to determine the presence of a disease, when
6439 the petition is filed or within three days after the petition is filed.

6440 (5) The petitioner shall cause the petition required under this section to be served on
6441 the person who the petitioner is requesting to be tested in a manner that will best preserve the
6442 confidentiality of that person.

6443 (6) (a) The court shall set a time for a hearing on the matter within 10 days after the
6444 petition is filed and shall give the petitioner and the individual who is the subject of the petition

6445 notice of the hearing at least 72 hours prior to the hearing.

6446 (b) The individual who is the subject of the petition shall also be notified that the
6447 individual may have an attorney present at the hearing and that the individual's attorney may
6448 examine and cross-examine witnesses.

6449 (c) The hearing shall be conducted in camera.

6450 (7) The district court may enter an order requiring that an individual submit to testing,
6451 including a medical testing procedure, for a disease if the court finds probable cause to believe:

6452 (a) the petitioner was significantly exposed; and

6453 (b) the exposure occurred during the course of the emergency services provider's
6454 duties, the provision of emergency assistance or first aid by a first aid volunteer, or the health
6455 care provider acting in the course and scope of the provider's duties as a health care provider.

6456 (8) The court may order that the use of reasonable force is permitted to complete an
6457 ordered test if the individual who is the subject of the petition is a prisoner.

6458 (9) The court may order that additional, follow-up testing be conducted and that the
6459 individual submit to that testing, as it determines to be necessary and appropriate.

6460 (10) The court is not required to order an individual to submit to a test under this
6461 section if it finds that there is a substantial reason, relating to the life or health of the
6462 individual, not to enter the order.

6463 (11) (a) Upon order of the district court that an individual submit to testing for a
6464 disease, that individual shall report to the designated local health department to provide the
6465 ordered specimen within five days after the day on which the court issues the order, and
6466 thereafter as designated by the court, or be held in contempt of court.

6467 (b) The court shall send the order to the Department of [~~Health~~] Health and Human
6468 Services and to the local health department ordered to conduct or oversee the test.

6469 (c) Notwithstanding the provisions of Section [~~26-6-27~~] 26B-7-217, the Department of
6470 [~~Health~~] Health and Human Services and a local health department may disclose the test results
6471 pursuant to a court order as provided in this section.

6472 (d) Under this section, anonymous testing as provided under Section [~~26-6-3.5~~]
6473 26B-7-203 may not satisfy the requirements of the court order.

6474 (12) The local health department or the Department of [~~Health~~] Health and Human
6475 Services shall inform the subject of the petition and the petitioner of the results of the test and

6476 advise both parties that the test results are confidential. That information shall be maintained as
6477 confidential by all parties to the action.

6478 (13) The court, the court's personnel, the process server, the Department of [Health]
6479 Health and Human Services, local health department, and petitioner shall maintain
6480 confidentiality of the name and any other identifying information regarding the individual
6481 tested and the results of the test as they relate to that individual, except as specifically
6482 authorized by this chapter.

6483 (14) (a) Except as provided in Subsection (14)(b), the petitioner shall remit payment
6484 for each test performed in accordance with this section to the entity that performs the
6485 procedure.

6486 (b) If the petitioner is an emergency services provider, the agency that employs the
6487 emergency services provider shall remit payment for each test performed in accordance with
6488 this section to the entity that performs the procedure.

6489 (15) The entity that obtains a specimen for a test ordered under this section shall cause
6490 the specimen and the payment for the analysis of the specimen to be delivered to the
6491 Department of [Health] Health and Human Services for analysis.

6492 (16) If the individual is incarcerated, the incarcerating authority shall either obtain a
6493 specimen for a test ordered under this section or shall pay the expenses of having the specimen
6494 obtained by a qualified individual who is not employed by the incarcerating authority.

6495 (17) The ex parte request or petition shall be sealed upon filing and made accessible
6496 only to the petitioner, the subject of the petition, and their attorneys, upon court order.

6497 Section 106. Section **78B-8-404** is amended to read:

6498 **78B-8-404. Department authority -- Rules.**

6499 The Labor Commission, in consultation with the Department of [Health] Health and
6500 Human Services, has authority to establish rules necessary for the purposes of Subsections
6501 **78B-8-401**(2) and (8).

6502 Section 107. Section **78B-10-106** is amended to read:

6503 **78B-10-106. Exceptions to privilege.**

6504 (1) There is no privilege under Section **78B-10-104** for a mediation communication
6505 that is:

6506 (a) in an agreement evidenced by a record signed by all parties to the agreement;

6507 (b) available to the public under Title 63G, Chapter 2, Government Records Access
6508 and Management Act, or made during a mediation session which is open, or is required by law
6509 to be open, to the public;

6510 (c) a threat or statement of a plan to inflict bodily injury or commit a crime of violence;

6511 (d) intentionally used to plan a crime, attempt to commit or commit a crime, or to
6512 conceal an ongoing crime or ongoing criminal activity;

6513 (e) sought or offered to prove or disprove a claim or complaint of professional
6514 misconduct or malpractice filed against a mediator;

6515 (f) except as otherwise provided in Subsection (3), sought or offered to prove or
6516 disprove a claim or complaint of professional misconduct or malpractice filed against a
6517 mediation party, nonparty participant, or representative of a party based on conduct occurring
6518 during a mediation; or

6519 (g) subject to the reporting requirements in Section [~~62A-3-305~~] [26B-6-205](#) or
6520 [80-2-602](#).

6521 (2) There is no privilege under Section [78B-10-104](#) if a court, administrative agency, or
6522 arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of
6523 the evidence has shown that:

6524 (a) the evidence is not otherwise available;

6525 (b) there is a need for the evidence that substantially outweighs the interest in
6526 protecting confidentiality; and

6527 (c) the mediation communication is sought or offered in:

6528 (i) a court proceeding involving a felony or misdemeanor; or

6529 (ii) except as otherwise provided in Subsection (3), a proceeding to prove a claim to
6530 rescind or reform or a defense to avoid liability on a contract arising out of the mediation.

6531 (3) A mediator may not be compelled to provide evidence of a mediation
6532 communication referred to in Subsection (1)(f) or (2)(c)(ii).

6533 (4) If a mediation communication is not privileged under Subsection (1) or (2), only
6534 the portion of the communication necessary for the application of the exception from
6535 nondisclosure may be admitted. Admission of evidence under Subsection (1) or (2) does not
6536 render the evidence, or any other mediation communication, discoverable or admissible for any
6537 other purpose.

6538 Section 108. Section **78B-12-102** is amended to read:

6539 **78B-12-102. Definitions.**

6540 As used in this chapter:

6541 (1) "Adjusted gross income" means income calculated under Subsection

6542 [78B-12-204](#)(1).

6543 (2) "Administrative agency" means the Office of Recovery Services or the Department
6544 of [~~Human Services~~] Health and Human Services.

6545 (3) "Administrative order" means an order that has been issued by the Office of
6546 Recovery Services, the Department of [~~Human Services~~] Health and Human Services, or an
6547 administrative agency of another state or other comparable jurisdiction with similar authority to
6548 that of the office.

6549 (4) "Base child support award" means the award that may be ordered and is calculated
6550 using the guidelines before additions for medical expenses and work-related child care costs.

6551 (5) "Base combined child support obligation table," "child support table," "base child
6552 support obligation table," "low income table," or "table" means the appropriate table in Part 3,
6553 Tables.

6554 (6) "Cash medical support" means an obligation to equally share all reasonable and
6555 necessary medical and dental expenses of children.

6556 (7) "Child" means:

6557 (a) a son or daughter under the age of 18 years who is not otherwise emancipated,
6558 self-supporting, married, or a member of the armed forces of the United States;

6559 (b) a son or daughter over the age of 18 years, while enrolled in high school during the
6560 normal and expected year of graduation and not otherwise emancipated, self-supporting,
6561 married, or a member of the armed forces of the United States; or

6562 (c) a son or daughter of any age who is incapacitated from earning a living and, if able
6563 to provide some financial resources to the family, is not able to support self by own means.

6564 (8) "Child support" means a base child support award, or a monthly financial award for
6565 uninsured medical expenses, ordered by a tribunal for the support of a child, including current
6566 periodic payments, arrearages that accrue under an order for current periodic payments, and
6567 sum certain judgments awarded for arrearages, medical expenses, and child care costs.

6568 (9) "Child support order" or "support order" means a judgment, decree, or order of a

6569 tribunal whether interlocutory or final, whether or not prospectively or retroactively modifiable,
6570 whether incidental to a proceeding for divorce, judicial or legal separation, separate
6571 maintenance, paternity, guardianship, civil protection, or otherwise that:

6572 (a) establishes or modifies child support;

6573 (b) reduces child support arrearages to judgment; or

6574 (c) establishes child support or registers a child support order under Chapter 14, Utah
6575 Uniform Interstate Family Support Act.

6576 (10) "Child support services" or "IV-D child support services" means services provided
6577 pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651 et seq.

6578 (11) "Court" means the district court or juvenile court.

6579 (12) "Guidelines" means the directions for the calculation and application of child
6580 support in Part 2, Calculation and Adjustment.

6581 (13) "Health care coverage" means coverage under which medical services are
6582 provided to a dependent child through:

6583 (a) fee for service;

6584 (b) a health maintenance organization;

6585 (c) a preferred provider organization;

6586 (d) any other type of private health insurance; or

6587 (e) public health care coverage.

6588 (14) (a) "Income" means earnings, compensation, or other payment due to an
6589 individual, regardless of source, whether denominated as wages, salary, commission, bonus,
6590 pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and
6591 incentive pay.

6592 (b) "Income" includes:

6593 (i) all gain derived from capital assets, labor, or both, including profit gained through
6594 sale or conversion of capital assets;

6595 (ii) interest and dividends;

6596 (iii) periodic payments made under pension or retirement programs or insurance
6597 policies of any type;

6598 (iv) unemployment compensation benefits;

6599 (v) workers' compensation benefits; and

6600 (vi) disability benefits.

6601 (15) "Joint physical custody" means the child stays with each parent overnight for more
6602 than 30% of the year, and both parents contribute to the expenses of the child in addition to
6603 paying child support.

6604 (16) "Medical expenses" means health and dental expenses and related insurance costs.

6605 (17) "Obligee" means an individual, this state, another state, or another comparable
6606 jurisdiction to whom child support is owed or who is entitled to reimbursement of child
6607 support or public assistance.

6608 (18) "Obligor" means a person owing a duty of support.

6609 (19) "Office" means the Office of Recovery Services within the Department of [~~Human~~
6610 ~~Services~~] Health and Human Services.

6611 (20) "Parent" includes a natural parent, or an adoptive parent.

6612 (21) "Pregnancy expenses" means an amount equal to:

6613 (a) the sum of a pregnant mother's:

6614 (i) health insurance premiums while pregnant that are not paid by an employer or
6615 government program; and

6616 (ii) medical costs related to the pregnancy, incurred after the date of conception and
6617 before the pregnancy ends; minus

6618 (b) any portion of the amount described in Subsection (21)(a) that a court determines is
6619 equitable based on the totality of the circumstances, not including any amount paid by the
6620 mother or father of the child.

6621 (22) "Split custody" means that each parent has physical custody of at least one of the
6622 children.

6623 (23) "State" includes a state, territory, possession of the United States, the District of
6624 Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable
6625 domestic or foreign jurisdiction.

6626 (24) "Temporary" means a period of time that is projected to be less than 12 months in
6627 duration.

6628 (25) "Third party" means an agency or a person other than the biological or adoptive
6629 parent or a child who provides care, maintenance, and support to a child.

6630 (26) "Tribunal" means the district court, the Department of [~~Human Services~~] Health

6631 and Human Services, Office of Recovery Services, or court or administrative agency of a state,
6632 territory, possession of the United States, the District of Columbia, the Commonwealth of
6633 Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

6634 (27) "Work-related child care costs" means reasonable child care costs for up to a
6635 full-time work week or training schedule as necessitated by the employment or training of a
6636 parent under Section [78B-12-215](#).

6637 (28) "Worksheets" means the forms used to aid in calculating the base child support
6638 award.

6639 Section 109. Section **78B-12-111** is amended to read:

6640 **78B-12-111. Court order -- Medical expenses of dependent children -- Assigning**
6641 **responsibility for payment -- Insurance coverage -- Income withholding.**

6642 The court shall include the following in its order:

6643 (1) a provision assigning responsibility for the payment of reasonable and necessary
6644 medical expenses for the dependent children;

6645 (2) a provision requiring the purchase and maintenance of appropriate insurance for the
6646 medical expenses of dependent children, if coverage is or becomes available at a reasonable
6647 cost; and

6648 (3) provisions for income withholding, in accordance with [~~Title 62A, Chapter 11, Part~~
6649 ~~4, Income Withholding in IV-D Cases, and Part 5, Income Withholding in Non IV-D Cases]~~
6650 Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9,
6651 Part 4, Income Withholding in Non IV-D Cases.

6652 Section 110. Section **78B-12-112** is amended to read:

6653 **78B-12-112. Payment under child support order -- Judgment.**

6654 (1) All monthly payments of child support shall be due on the 1st day of each month
6655 pursuant to [~~Title 62A, Chapter 11, Part 3, Child Support Services Act, Part 4, Income~~
6656 ~~Withholding in IV-D Cases, and Part 5, Income Withholding in Non IV-D Cases]~~ Title 26B,
6657 Chapter 9, Part 2, Child Support Services, Title 26B, Chapter 9, Part 3, Income Withholding in
6658 IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases.

6659 (2) For purposes of child support services and income withholding pursuant to [~~Title~~
6660 ~~62A, Chapter 11, Part 3, Child Support Services Act, and Part 4, Income Withholding in IV-D~~
6661 ~~Cases]~~ Title 26B, Chapter 9, Part 2, Child Support Services, and Title 26B, Chapter Part 3,

6662 Income Withholding in IV-D Cases, child support is not considered past due until the 1st day
6663 of the following month. For purposes other than those specified in Subsection (1) support shall
6664 be payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the
6665 order or decree provides for a different time for payment.

6666 (3) Each payment or installment of child or spousal support under any support order, as
6667 defined by Section [78B-12-102](#), is, on and after the date it is due:

6668 (a) a judgment with the same attributes and effect of any judgment of a district court,
6669 except as provided in Subsection (4);

6670 (b) entitled, as a judgment, to full faith and credit in this and in any other jurisdiction;
6671 and

6672 (c) not subject to retroactive modification by this or any other jurisdiction, except as
6673 provided in Subsection (4).

6674 (4) A child or spousal support payment under a support order may be modified with
6675 respect to any period during which a modification is pending, but only from the date of service
6676 of the pleading on the obligee, if the obligor is the petitioner, or on the obligor, if the obligee is
6677 the petitioner. If the tribunal orders that the support should be modified, the effective date of
6678 the modification shall be the month following service on the parent whose support is affected.
6679 Once the tribunal determines that a modification is appropriate, the tribunal shall order a
6680 judgment to be entered for any difference in the original order and the modified amount for the
6681 period from the service of the pleading until the final order of modification is entered.

6682 (5) The judgment provided for in Subsection (3)(a), to be effective and enforceable as a
6683 lien against the real property interest of any third party relying on the public record, shall be
6684 docketed in the district court in accordance with Sections [78B-5-202](#) and [~~62A-11-312.5~~]
6685 [26B-9-214](#).

6686 Section 111. Section **78B-12-113** is amended to read:

6687 **78B-12-113. Enforcement of right of support.**

6688 (1) (a) The obligee may enforce his right of support against the obligor. The office
6689 may proceed pursuant to this chapter or any other applicable statute on behalf of:

6690 (i) the Department of [~~Human Services~~] Health and Human Services;

6691 (ii) any other department or agency of this state that provides public assistance, as
6692 defined by Subsection [~~62A-11-303(3)~~] [26B-9-201\(4\)](#), to enforce the right to recover public

6693 assistance; or

6694 (iii) the obligee, to enforce the obligee's right of support against the obligor.

6695 (b) Whenever any court action is commenced by the office to enforce payment of the
6696 obligor's support obligation, the attorney general or the county attorney of the county of
6697 residence of the obligee shall represent the office.

6698 (2) (a) A person may not commence an action, file a pleading, or submit a written
6699 stipulation to the court, without complying with Subsection (2)(b), if the purpose or effect of
6700 the action, pleading, or stipulation is to:

6701 (i) establish paternity;

6702 (ii) establish or modify a support obligation;

6703 (iii) change the court-ordered manner of payment of support;

6704 (iv) recover support due or owing; or

6705 (v) appeal issues regarding child support laws.

6706 (b) (i) When taking an action described in Subsection (2)(a), a person must file an
6707 affidavit with the court at the time the action is commenced, the pleading is filed, or the
6708 stipulation is submitted stating whether child support services have been or are being provided
6709 under Part IV of the Social Security Act, 42 U.S.C., Section 601 et seq., on behalf of a child
6710 who is a subject of the action, pleading, or stipulation.

6711 (ii) If child support services have been or are being provided, under Part IV of the
6712 Social Security Act, 42 U.S.C., Section 601 et seq., the person shall mail a copy of the affidavit
6713 and a copy of the pleading or stipulation to the Office of the Attorney General, Child Support
6714 Division.

6715 (iii) If notice is not given in accordance with this Subsection (2), the office is not
6716 bound by any decision, judgment, agreement, or compromise rendered in the action. For
6717 purposes of appeals, service must be made on the Office of the Director for the Office of
6718 Recovery Services.

6719 (c) If IV-D services have been or are being provided, that person shall join the office as
6720 a party to the action, or mail or deliver a written request to the Office of the Attorney General,
6721 Child Support Division asking the office to join as a party to the action. A copy of that request,
6722 along with proof of service, shall be filed with the court. The office shall be represented as
6723 provided in Subsection (1)(b).

6724 (3) Neither the attorney general nor the county attorney represents or has an
6725 attorney-client relationship with the obligee or the obligor in carrying out the duties under this
6726 chapter.

6727 Section 112. Section **78B-12-216** is amended to read:

6728 **78B-12-216. Reduction for extended parent-time.**

6729 (1) The base child support award shall be:

6730 (a) reduced by 50% for each child for time periods during which the child is with the
6731 noncustodial parent by order of the court or by written agreement of the parties for at least 25
6732 of any 30 consecutive days of extended parent-time; or

6733 (b) 25% for each child for time periods during which the child is with the noncustodial
6734 parent by order of the court, or by written agreement of the parties for at least 12 of any 30
6735 consecutive days of extended parent-time.

6736 (2) If the dependent child is a client of cash assistance provided under Title 35A,
6737 Chapter 3, Part 3, Family Employment Program, any agreement by the parties for reduction of
6738 child support during extended parent-time shall be approved by the administrative agency.

6739 (3) Normal parent-time and holiday visits to the custodial parent shall not be
6740 considered extended parent-time.

6741 (4) For cases receiving IV-D child support services in accordance with [~~Title 62A,~~
6742 ~~Chapter 11, Part 1, Office of Recovery Services, Part 3, Child Support Services Act, and Part 4,~~
6743 ~~Income Withholding in IV-D Cases]~~ Title 26B, Chapter 9, Part 1, Office of Recovery Services,
6744 Title 26B, Chapter 9, Part 2, Child Support Services, and Title 26B, Chapter 9, Part 3, Income
6745 Withholding in IV-D Cases, to receive the adjustment the noncustodial parent shall provide
6746 written documentation of the extended parent-time schedule, including the beginning and
6747 ending dates, to the Office of Recovery Services in the form of either a court order or a
6748 voluntary written agreement between the parties.

6749 (5) If the noncustodial parent complies with Subsection (4), owes no past-due support,
6750 and pays the full, unadjusted amount of current child support due for the month of scheduled
6751 extended parent-time and the following month, the Office of Recovery Services shall refund
6752 the difference from the child support due to the custodial parent or the state, between the full
6753 amount of current child support received during the month of extended parent-time and the
6754 adjusted amount of current child support due:

6755 (a) from current support received in the month following the month of scheduled
6756 extended parent-time; or

6757 (b) from current support received in the month following the month written
6758 documentation of the scheduled extended parent-time is provided to the office, whichever
6759 occurs later.

6760 (6) If the noncustodial parent complies with Subsection (4), owes past-due support, and
6761 pays the full, unadjusted amount of current child support due for the month of scheduled
6762 extended parent-time, the Office of Recovery Services shall apply the difference, from the child
6763 support due to the custodial parent or the state, between the full amount of current child
6764 support received during the month of extended parent-time and the adjusted amount of current
6765 child support due, to the past-due support obligation in the case.

6766 (7) For cases not receiving IV-D child support services in accordance with [~~Title 62A,~~
6767 ~~Chapter 11, Part 1, Office of Recovery Services, Part 3, Child Support Services Act, and Part 4,~~
6768 ~~Income Withholding in IV-D Cases]~~ Title 26B, Chapter 9, Part 1, Office of Recovery Services,
6769 Title 26B, Chapter 9, Part 2, Child Support Services, and Title 26B, Chapter Part 3, Income
6770 Withholding in IV-D Cases, any potential adjustment of the support payment during the month
6771 of extended visitation or any refund that may be due to the noncustodial parent from the
6772 custodial parent, shall be resolved between the parents or through the court without
6773 involvement by the Office of Recovery Services.

6774 (8) For purposes of this section the per child amount to which the abatement applies
6775 shall be calculated by dividing the base child support award by the number of children included
6776 in the award.

6777 (9) The reduction in this section does not apply to parents with joint physical custody
6778 obligations calculated in accordance with Section [78B-12-208](#).

6779 Section 113. Section **78B-12-402** is amended to read:

6780 **78B-12-402. Duties -- Report -- Staff.**

6781 (1) The advisory committee shall review the child support guidelines to ensure the
6782 application of the guidelines results in the determination of appropriate child support award
6783 amounts.

6784 (2) The advisory committee shall submit, in accordance with Section [68-3-14](#), a written
6785 report to the legislative Judiciary Interim Committee on or before October 1, 2021, and then on

6786 or before October 1 of every fourth year subsequently.

6787 (3) The advisory committee's report shall include recommendations of the majority of
6788 the advisory committee, as well as specific recommendations of individual members of the
6789 advisory committee.

6790 (4) Staff for the advisory committee shall be provided from the existing budget of the
6791 Department of [~~Human Services~~] Health and Human Services.

6792 Section 114. Section **78B-14-103** is amended to read:

6793 **78B-14-103. State tribunal and support enforcement agency.**

6794 (1) The district court and the Utah Department of [~~Human Services~~] Health and Human
6795 Services are the tribunals of this state.

6796 (2) The Utah Department of [~~Human Services~~] Health and Human Services is the state
6797 support enforcement agency.

6798 Section 115. Section **78B-14-501** is amended to read:

6799 **78B-14-501. Employer's receipt of income-withholding order of another state.**

6800 An income-withholding order issued in another state may be sent by or on behalf of the
6801 obligee, or by the support-enforcement agency, to the person defined as the obligor's employer
6802 under [~~Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Part 5, Income~~
6803 ~~Withholding in Non IV-D Cases~~] Title 26B, Chapter 9, Part 3, Income Withholding in IV-D
6804 Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases, without first
6805 filing a petition or comparable pleading or registering the order with a tribunal of this state.

6806 Section 116. Section **78B-14-605** is amended to read:

6807 **78B-14-605. Notice of registration of order.**

6808 (1) When a support order or income-withholding order issued in another state, or a
6809 foreign support order, is registered, the registering tribunal of this state shall notify the
6810 nonregistering party. The notice shall be accompanied by a copy of the registered order and the
6811 documents and relevant information accompanying the order.

6812 (2) A notice shall inform the nonregistering party:

6813 (a) that a registered order is enforceable as of the date of registration in the same
6814 manner as an order issued by a tribunal of this state;

6815 (b) that a hearing to contest the validity or enforcement of the registered order shall be
6816 requested within 20 days after notice, unless the registered order is under Section [78B-14-707](#);

6817 (c) that failure to contest the validity or enforcement of the registered order in a timely
6818 manner will result in confirmation of the order and enforcement of the order and the alleged
6819 arrearages; and

6820 (d) of the amount of any alleged arrearages.

6821 (3) If the registering party asserts that two or more orders are in effect, a notice shall
6822 also:

6823 (a) identify the two or more orders and the order alleged by the registering party to be
6824 the controlling order and the consolidated arrears, if any;

6825 (b) notify the nonregistering party of the right to a determination of which is the
6826 controlling order;

6827 (c) state that the procedures provided in Subsection (2) apply to the determination of
6828 which is the controlling order; and

6829 (d) state that failure to contest the validity or enforcement of the order alleged to be the
6830 controlling order in a timely manner may result in confirmation that the order is the controlling
6831 order.

6832 (4) Upon registration of an income-withholding order for enforcement, the support
6833 enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to
6834 [~~Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases~~] Title 26B, Chapter 9, Part
6835 3, Income Withholding in IV-D Cases.

6836 Section 117. Section **78B-14-703** is amended to read:

6837 **78B-14-703. Relationship of Department of Health and Human Services to**
6838 **United States central authority.**

6839 The Utah Department of [~~Human Services~~] Health and Human Services is recognized
6840 as the agency designated by the United States central authority to perform specific functions
6841 under the convention.

6842 Section 118. Section **78B-14-704** is amended to read:

6843 **78B-14-704. Initiation by Department of Health and Human Services of support**
6844 **proceeding under convention.**

6845 (1) In a support proceeding under this part, the Utah Department of [~~Human Services~~]
6846 Health and Human Services shall:

6847 (a) transmit and receive applications; and

6848 (b) initiate or facilitate the institution of a proceeding regarding an application in a
6849 tribunal of this state.

6850 (2) The following support proceedings are available to an obligee under the
6851 convention:

6852 (a) recognition or recognition and enforcement of a foreign support order;

6853 (b) enforcement of a support order issued or recognized in this state;

6854 (c) establishment of a support order if there is no existing order, including, if
6855 necessary, determination of parentage of a child;

6856 (d) establishment of a support order if recognition of a foreign support order is refused
6857 under Subsection 78B-14-708(2)(b), (d), or (i);

6858 (e) modification of a support order of a tribunal of this state; and

6859 (f) modification of a support order of a tribunal of another state or a foreign country.

6860 (3) The following support proceedings are available under the convention to an obligor
6861 against which there is an existing support order:

6862 (a) recognition of an order suspending or limiting enforcement of an existing support
6863 order of a tribunal of this state;

6864 (b) modification of a support order of a tribunal of this state; and

6865 (c) modification of a support order of a tribunal of another state or a foreign country.

6866 (4) A tribunal of this state may not require security, bond, or deposit, however
6867 described, to guarantee the payment of costs and expenses in proceedings under the
6868 convention.

6869 Section 119. Section 78B-15-104 is amended to read:

6870 **78B-15-104. Jurisdiction -- Authority of Office of Recovery Services -- Dismissal**
6871 **of petition.**

6872 (1) (a) Except as provided in Subsection 78A-6-104(1)(a)(i), the district court has
6873 original jurisdiction over any action brought under this chapter.

6874 (b) If the juvenile court has concurrent jurisdiction under Subsection
6875 78A-6-104(1)(a)(i) over a paternity action filed in the district court, the district court may
6876 transfer jurisdiction over the paternity action to the juvenile court.

6877 (2) The Office of Recovery Services is authorized to establish paternity in accordance
6878 with this chapter, [~~Title 62A, Chapter 11, Recovery Services~~] Title 26B, Chapter 9, Recovery

6879 Services and Administration of Child Support, and Title 63G, Chapter 4, Administrative
6880 Procedures Act.

6881 (3) A court shall, without adjudicating paternity, dismiss a petition that is filed under
6882 this chapter by an unmarried biological father if he is not entitled to consent to the adoption of
6883 the child under Sections [78B-6-121](#) and [78B-6-122](#).

6884 Section 120. Section **78B-15-107** is amended to read:

6885 **78B-15-107. Effect.**

6886 An adjudication or declaration of paternity shall be filed with the state registrar in
6887 accordance with Section ~~[26-2-5]~~ [26B-8-104](#).

6888 Section 121. Section **78B-24-203** is amended to read:

6889 **78B-24-203. Prohibited custody transfer.**

6890 (1) Except as provided in Subsection (2), a parent or guardian of a child, or an
6891 individual with whom a child has been placed for adoption, may not transfer custody of the
6892 child to another person with the intent, at the time of the transfer, to abandon the rights and
6893 responsibilities concerning the child.

6894 (2) A parent or guardian of a child or an individual with whom a child has been placed
6895 for adoption may transfer custody of the child to another person with the intent, at the time of
6896 the transfer, to abandon the rights and responsibilities concerning the child only through:

6897 (a) adoption or guardianship;

6898 (b) judicial award of custody;

6899 (c) placement by or through a child-placing agency;

6900 (d) other judicial or tribal action; or

6901 (e) safe relinquishment under ~~[Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a~~
6902 ~~Newborn Child]~~ Title 80, Chapter 4, Part 5, Safe Relinquishment of a Newborn Child.

6903 (3) (a) A person may not receive custody of a child, or act as an intermediary in a
6904 transfer of custody of a child, if the person knows or reasonably should know the transfer
6905 violates Subsection (1).

6906 (b) This subsection does not apply if the person as soon as practicable after the transfer,
6907 notifies the Division of Child and Family Services of the transfer or takes appropriate action to
6908 establish custody under Subsection (2).

6909 (4) A violation of this section is a class B misdemeanor.

6910 (5) A violation of Subsection (1) is not established solely because a parent or guardian
6911 that transfers custody of a child does not regain custody.

6912 Section 122. Section **78B-24-307** is amended to read:

6913 **78B-24-307. Child-placing agency compliance.**

6914 (1) The Office of Licensing, created in Section [~~62A-2-103~~] [26B-2-103](#), may
6915 investigate an allegation that a child-placing agency has failed to comply with this part and
6916 commence an action for injunctive or other relief or initiate administrative proceedings against
6917 the child-placing agency to enforce this part.

6918 (2) (a) The Office of Licensing may initiate a proceeding to determine whether a
6919 child-placing agency has failed to comply with this part.

6920 (b) If the Office of Licensing finds that the child-placing agency has failed to comply,
6921 the Office of Licensing may suspend or revoke the child-placing agency's license or take other
6922 action permitted by law of the state.

6923 Section 123. Section **78B-24-308** is amended to read:

6924 **78B-24-308. Rulemaking authority.**

6925 The Office of Licensing, created in Section [~~62A-2-103~~] [26B-2-103](#), may adopt rules
6926 under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement Sections
6927 [78B-24-303](#), [78B-24-304](#), [78B-24-305](#), and [78B-24-306](#).

6928 Section 124. Section **79-2-404** is amended to read:

6929 **79-2-404. Contracting powers of department -- Health insurance coverage.**

6930 (1) As used in this section:

6931 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
6932 related to a single project.

6933 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

6934 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or
6935 "operative" who:

6936 (i) works at least 30 hours per calendar week; and

6937 (ii) meets employer eligibility waiting requirements for health care insurance, which
6938 may not exceed the first day of the calendar month following 60 days after the day on which
6939 the individual is hired.

6940 (d) "Health benefit plan" means:

- 6941 (i) the same as that term is defined in Section [31A-1-301](#); or
- 6942 (ii) an employee welfare benefit plan:
- 6943 (A) established under the Employee Retirement Income Security Act of 1974, 29
- 6944 U.S.C. Sec. 1001 et seq.;
- 6945 (B) for an employer with 100 or more employees; and
- 6946 (C) in which the employer establishes a self-funded or partially self-funded group
- 6947 health plan to provide medical care for the employer's employees and dependents of the
- 6948 employees.
- 6949 (e) "Qualified health coverage" means the same as that term is defined in Section
- 6950 ~~[26-40-115]~~ [26B-3-909](#).
- 6951 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).
- 6952 (g) "Third party administrator" or "administrator" means the same as that term is
- 6953 defined in Section [31A-1-301](#).
- 6954 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 6955 (a) a contractor of a design or construction contract entered into by, or delegated to, the
- 6956 department or a division, board, or council of the department on or after July 1, 2009, if the
- 6957 prime contract is in an aggregate amount equal to or greater than \$2,000,000; and
- 6958 (b) a subcontractor of a contractor of a design or construction contract entered into by,
- 6959 or delegated to, the department or a division, board, or council of the department on or after
- 6960 July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.
- 6961 (3) This section does not apply to contracts entered into by the department or a
- 6962 division, board, or council of the department if:
- 6963 (a) the application of this section jeopardizes the receipt of federal funds;
- 6964 (b) the contract or agreement is between:
- 6965 (i) the department or a division, board, or council of the department; and
- 6966 (ii) (A) another agency of the state;
- 6967 (B) the federal government;
- 6968 (C) another state;
- 6969 (D) an interstate agency;
- 6970 (E) a political subdivision of this state; or
- 6971 (F) a political subdivision of another state; or

- 6972 (c) the contract or agreement is:
- 6973 (i) for the purpose of disbursing grants or loans authorized by statute;
- 6974 (ii) a sole source contract; or
- 6975 (iii) an emergency procurement.
- 6976 (4) A person that intentionally uses change orders, contract modifications, or multiple
- 6977 contracts to circumvent the requirements of this section is guilty of an infraction.
- 6978 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
- 6979 department that the contractor has and will maintain an offer of qualified health coverage for
- 6980 the contractor's employees and the employees' dependents during the duration of the contract
- 6981 by submitting to the department a written statement that:
- 6982 (i) the contractor offers qualified health coverage that complies with Section
- 6983 ~~[26-40-115]~~ [26B-3-909](#);
- 6984 (ii) is from:
- 6985 (A) an actuary selected by the contractor or the contractor's insurer;
- 6986 (B) an underwriter who is responsible for developing the employer group's premium
- 6987 rates; or
- 6988 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
- 6989 an actuary or underwriter selected by a third party administrator; and
- 6990 (iii) was created within one year before the day on which the statement is submitted.
- 6991 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
- 6992 shall provide the actuary or underwriter selected by an administrator, as described in
- 6993 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's
- 6994 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the
- 6995 requirements of qualified health coverage.
- 6996 (ii) A contractor may not make a change to the contractor's contribution to the health
- 6997 benefit plan, unless the contractor provides notice to:
- 6998 (A) the actuary or underwriter selected by an administrator, as described in Subsection
- 6999 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in
- 7000 Subsection (5)(a) in compliance with this section; and
- 7001 (B) the department.
- 7002 (c) A contractor that is subject to the requirements of this section shall:

7003 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
7004 is subject to the requirements of this section shall obtain and maintain an offer of qualified
7005 health coverage for the subcontractor's employees and the employees' dependents during the
7006 duration of the subcontract; and

7007 (ii) obtain from a subcontractor that is subject to the requirements of this section a
7008 written statement that:

7009 (A) the subcontractor offers qualified health coverage that complies with Section
7010 ~~[26-40-115]~~ [26B-3-909](#);

7011 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an
7012 underwriter who is responsible for developing the employer group's premium rates, or if the
7013 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or
7014 underwriter selected by an administrator; and

7015 (C) was created within one year before the day on which the contractor obtains the
7016 statement.

7017 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage
7018 described in Subsection (5)(a) during the duration of the contract is subject to penalties in
7019 accordance with administrative rules adopted by the department under Subsection (6).

7020 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
7021 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

7022 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
7023 coverage described in Subsection (5)(c) during the duration of the subcontract is subject to
7024 penalties in accordance with administrative rules adopted by the department under Subsection
7025 (6).

7026 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
7027 an offer of qualified health coverage described in Subsection (5)(a).

7028 (6) The department shall adopt administrative rules:

7029 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

7030 (b) in coordination with:

7031 (i) the Department of Environmental Quality in accordance with Section [19-1-206](#);

7032 (ii) a public transit district in accordance with Section [17B-2a-818.5](#);

7033 (iii) the Division of Facilities Construction and Management in accordance with

7034 Section [63A-5b-607](#);

7035 (iv) the State Capitol Preservation Board in accordance with Section [63C-9-403](#);

7036 (v) the Department of Transportation in accordance with Section [72-6-107.5](#); and

7037 (vi) the Legislature's Administrative Rules Review and General Oversight Committee;

7038 and

7039 (c) that establish:

7040 (i) the requirements and procedures a contractor and a subcontractor shall follow to

7041 demonstrate compliance with this section, including:

7042 (A) that a contractor or subcontractor's compliance with this section is subject to an

7043 audit by the department or the Office of the Legislative Auditor General;

7044 (B) that a contractor that is subject to the requirements of this section shall obtain a

7045 written statement described in Subsection (5)(a); and

7046 (C) that a subcontractor that is subject to the requirements of this section shall obtain a

7047 written statement described in Subsection (5)(c)(ii);

7048 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally

7049 violates the provisions of this section, which may include:

7050 (A) a three-month suspension of the contractor or subcontractor from entering into

7051 future contracts with the state upon the first violation;

7052 (B) a six-month suspension of the contractor or subcontractor from entering into future

7053 contracts with the state upon the second violation;

7054 (C) an action for debarment of the contractor or subcontractor in accordance with

7055 Section [63G-6a-904](#) upon the third or subsequent violation; and

7056 (D) monetary penalties which may not exceed 50% of the amount necessary to

7057 purchase qualified health coverage for an employee and a dependent of an employee of the

7058 contractor or subcontractor who was not offered qualified health coverage during the duration

7059 of the contract; and

7060 (iii) a website on which the department shall post the commercially equivalent

7061 benchmark, for the qualified health coverage identified in Subsection (1)(e), provided by the

7062 Department of ~~[Health]~~ Health and Human Services, in accordance with Subsection

7063 ~~[26-40-115(2)]~~ [26B-3-909\(2\)](#).

7064 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor

7065 or subcontractor who intentionally violates the provisions of this section is liable to the
7066 employee for health care costs that would have been covered by qualified health coverage.

7067 (ii) An employer has an affirmative defense to a cause of action under Subsection
7068 (7)(a)(i) if:

7069 (A) the employer relied in good faith on a written statement described in Subsection
7070 (5)(a) or (5)(c)(ii); or

7071 (B) the department determines that compliance with this section is not required under
7072 the provisions of Subsection (3).

7073 (b) An employee has a private right of action only against the employee's employer to
7074 enforce the provisions of this Subsection (7).

7075 (8) Any penalties imposed and collected under this section shall be deposited into the
7076 Medicaid Restricted Account created in Section [~~26-18-402~~] [26B-1-309](#).

7077 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
7078 required by this section:

7079 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
7080 or contractor under:

7081 (i) Section [63G-6a-1602](#); or

7082 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

7083 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
7084 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
7085 or construction.

7086 (10) An administrator, including an administrator's actuary or underwriter, who
7087 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health
7088 coverage of a contractor or subcontractor who provides a health benefit plan described in
7089 Subsection (1)(d)(ii):

7090 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,
7091 unless the administrator commits gross negligence in preparing the written statement;

7092 (b) is not liable for any error in the written statement if the administrator relied in good
7093 faith on information from the contractor or subcontractor; and

7094 (c) may require as a condition of providing the written statement that a contractor or
7095 subcontractor hold the administrator harmless for an action arising under this section.

7096 Section 125. Section **80-1-102** is amended to read:

7097 **80-1-102. Juvenile Code definitions.**

7098 Except as provided in Section [80-6-1103](#), as used in this title:

7099 (1) (a) "Abuse" means:

7100 (i) (A) nonaccidental harm of a child;

7101 (B) threatened harm of a child;

7102 (C) sexual exploitation;

7103 (D) sexual abuse; or

7104 (E) human trafficking of a child in violation of Section [76-5-308.5](#); or

7105 (ii) that a child's natural parent:

7106 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
7107 child;

7108 (B) is identified by a law enforcement agency as the primary suspect in an investigation
7109 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

7110 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
7111 recklessly causing the death of another parent of the child.

7112 (b) "Abuse" does not include:

7113 (i) reasonable discipline or management of a child, including withholding privileges;

7114 (ii) conduct described in Section [76-2-401](#); or

7115 (iii) the use of reasonable and necessary physical restraint or force on a child:

7116 (A) in self-defense;

7117 (B) in defense of others;

7118 (C) to protect the child; or

7119 (D) to remove a weapon in the possession of a child for any of the reasons described in

7120 Subsections (1)(b)(iii)(A) through (C).

7121 (2) "Abused child" means a child who has been subjected to abuse.

7122 (3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the
7123 facts alleged in the petition have been proved.

7124 (b) "Adjudication" does not mean a finding of not competent to proceed in accordance
7125 with Section [80-6-402](#).

7126 (4) (a) "Adult" means an individual who is 18 years old or older.

- 7127 (b) "Adult" does not include an individual:
- 7128 (i) who is 18 years old or older; and
- 7129 (ii) who is a minor.
- 7130 (5) "Attorney guardian ad litem" means the same as that term is defined in Section
- 7131 [78A-2-801](#).
- 7132 (6) "Board" means the Board of Juvenile Court Judges.
- 7133 (7) "Child" means, except as provided in Section [80-2-905](#), an individual who is under
- 7134 18 years old.
- 7135 (8) "Child and family plan" means a written agreement between a child's parents or
- 7136 guardian and the Division of Child and Family Services as described in Section [80-3-307](#).
- 7137 (9) "Child placing" means the same as that term is defined in Section [~~62A-2-101~~]
- 7138 [26B-2-101](#).
- 7139 (10) "Child-placing agency" means the same as that term is defined in Section
- 7140 [~~62A-2-101~~] [26B-2-101](#).
- 7141 (11) "Child protection team" means a team consisting of:
- 7142 (a) the child welfare caseworker assigned to the case;
- 7143 (b) if applicable, the child welfare caseworker who made the decision to remove the
- 7144 child;
- 7145 (c) a representative of the school or school district where the child attends school;
- 7146 (d) if applicable, the law enforcement officer who removed the child from the home;
- 7147 (e) a representative of the appropriate Children's Justice Center, if one is established
- 7148 within the county where the child resides;
- 7149 (f) if appropriate, and known to the division, a therapist or counselor who is familiar
- 7150 with the child's circumstances;
- 7151 (g) if appropriate, a representative of law enforcement selected by the chief of police or
- 7152 sheriff in the city or county where the child resides; and
- 7153 (h) any other individuals determined appropriate and necessary by the team coordinator
- 7154 and chair.
- 7155 (12) (a) "Chronic abuse" means repeated or patterned abuse.
- 7156 (b) "Chronic abuse" does not mean an isolated incident of abuse.
- 7157 (13) (a) "Chronic neglect" means repeated or patterned neglect.

- 7158 (b) "Chronic neglect" does not mean an isolated incident of neglect.
- 7159 (14) "Clandestine laboratory operation" means the same as that term is defined in
- 7160 Section [58-37d-3](#).
- 7161 (15) "Commit" or "committed" means, unless specified otherwise:
- 7162 (a) with respect to a child, to transfer legal custody; and
- 7163 (b) with respect to a minor who is at least 18 years old, to transfer custody.
- 7164 (16) "Community-based program" means a nonsecure residential or nonresidential
- 7165 program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least
- 7166 restrictive setting, consistent with public safety, and operated by or under contract with the
- 7167 Division of Juvenile Justice Services.
- 7168 (17) "Community placement" means placement of a minor in a community-based
- 7169 program described in Section [80-5-402](#).
- 7170 (18) "Correctional facility" means:
- 7171 (a) a county jail; or
- 7172 (b) a secure correctional facility as defined in Section [64-13-1](#).
- 7173 (19) "Criminogenic risk factors" means evidence-based factors that are associated with
- 7174 a minor's likelihood of reoffending.
- 7175 (20) "Department" means the Department of Health and Human Services created in
- 7176 Section [26B-1-201](#).
- 7177 (21) "Dependent child" or "dependency" means a child who is without proper care
- 7178 through no fault of the child's parent, guardian, or custodian.
- 7179 (22) "Deprivation of custody" means transfer of legal custody by the juvenile court
- 7180 from a parent or a previous custodian to another person, agency, or institution.
- 7181 (23) "Detention" means home detention or secure detention.
- 7182 (24) "Detention facility" means a facility, established by the Division of Juvenile
- 7183 Justice Services in accordance with Section [80-5-501](#), for minors held in detention.
- 7184 (25) "Detention risk assessment tool" means an evidence-based tool established under
- 7185 Section [80-5-203](#) that:
- 7186 (a) assesses a minor's risk of failing to appear in court or reoffending before
- 7187 adjudication; and
- 7188 (b) is designed to assist in making a determination of whether a minor shall be held in

7189 detention.

7190 (26) "Developmental immaturity" means incomplete development in one or more
7191 domains that manifests as a functional limitation in the minor's present ability to:

7192 (a) consult with counsel with a reasonable degree of rational understanding; and

7193 (b) have a rational as well as factual understanding of the proceedings.

7194 (27) "Disposition" means an order by a juvenile court, after the adjudication of a
7195 minor, under Section [80-3-405](#) or [80-4-305](#) or Chapter 6, Part 7, Adjudication and Disposition.

7196 (28) "Educational neglect" means that, after receiving a notice of compulsory education
7197 violation under Section [53G-6-202](#), the parent or guardian fails to make a good faith effort to
7198 ensure that the child receives an appropriate education.

7199 (29) "Educational series" means an evidence-based instructional series:

7200 (a) obtained at a substance abuse program that is approved by the Division of

7201 Integrated Healthcare in accordance with Section [~~62A-15-105~~] [26B-5-105](#); and

7202 (b) designed to prevent substance use or the onset of a mental health disorder.

7203 (30) "Emancipated" means the same as that term is defined in Section [80-7-102](#).

7204 (31) "Evidence-based" means a program or practice that has had multiple randomized
7205 control studies or a meta-analysis demonstrating that the program or practice is effective for a
7206 specific population or has been rated as effective by a standardized program evaluation tool.

7207 (32) "Forensic evaluator" means the same as that term is defined in Section [77-15-2](#).

7208 (33) "Formal probation" means a minor is:

7209 (a) supervised in the community by, and reports to, a juvenile probation officer or an
7210 agency designated by the juvenile court; and

7211 (b) subject to return to the juvenile court in accordance with Section [80-6-607](#).

7212 (34) "Group rehabilitation therapy" means psychological and social counseling of one
7213 or more individuals in the group, depending upon the recommendation of the therapist.

7214 (35) "Guardian" means a person appointed by a court to make decisions regarding a
7215 minor, including the authority to consent to:

7216 (a) marriage;

7217 (b) enlistment in the armed forces;

7218 (c) major medical, surgical, or psychiatric treatment; or

7219 (d) legal custody, if legal custody is not vested in another individual, agency, or

7220 institution.

7221 (36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

7222 (37) "Harm" means:

7223 (a) physical or developmental injury or damage;

7224 (b) emotional damage that results in a serious impairment in the child's growth,
7225 development, behavior, or psychological functioning;

7226 (c) sexual abuse; or

7227 (d) sexual exploitation.

7228 (38) "Home detention" means placement of a minor:

7229 (a) if prior to a disposition, in the minor's home, or in a surrogate home with the
7230 consent of the minor's parent, guardian, or custodian, under terms and conditions established by
7231 the Division of Juvenile Justice Services or the juvenile court; or

7232 (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the
7233 minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or
7234 custodian, under terms and conditions established by the Division of Juvenile Justice Services
7235 or the juvenile court.

7236 (39) (a) "Incest" means engaging in sexual intercourse with an individual whom the
7237 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,
7238 nephew, niece, or first cousin.

7239 (b) "Incest" includes:

7240 (i) blood relationships of the whole or half blood, regardless of whether the
7241 relationship is legally recognized;

7242 (ii) relationships of parent and child by adoption; and

7243 (iii) relationships of stepparent and stepchild while the marriage creating the
7244 relationship of a stepparent and stepchild exists.

7245 (40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

7246 (41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

7247 (42) "Indigent defense service provider" means the same as that term is defined in
7248 Section 78B-22-102.

7249 (43) "Indigent defense services" means the same as that term is defined in Section
7250 78B-22-102.

- 7251 (44) "Indigent individual" means the same as that term is defined in Section
7252 [78B-22-102](#).
- 7253 (45) (a) "Intake probation" means a minor is:
7254 (i) monitored by a juvenile probation officer; and
7255 (ii) subject to return to the juvenile court in accordance with Section [80-6-607](#).
7256 (b) "Intake probation" does not include formal probation.
- 7257 (46) "Intellectual disability" means a significant subaverage general intellectual
7258 functioning existing concurrently with deficits in adaptive behavior that constitutes a
7259 substantial limitation to the individual's ability to function in society.
- 7260 (47) "Juvenile offender" means:
7261 (a) a serious youth offender; or
7262 (b) a youth offender.
- 7263 (48) "Juvenile probation officer" means a probation officer appointed under Section
7264 [78A-6-205](#).
- 7265 (49) "Juvenile receiving center" means a nonsecure, nonresidential program established
7266 by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile
7267 Justice Services, that is responsible for minors taken into temporary custody under Section
7268 [80-6-201](#).
- 7269 (50) "Legal custody" means a relationship embodying:
7270 (a) the right to physical custody of the minor;
7271 (b) the right and duty to protect, train, and discipline the minor;
7272 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
7273 medical care;
7274 (d) the right to determine where and with whom the minor shall live; and
7275 (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- 7276 (51) "Licensing Information System" means the Licensing Information System
7277 maintained by the Division of Child and Family Services under Section [80-2-1002](#).
- 7278 (52) "Management Information System" means the Management Information System
7279 developed by the Division of Child and Family Services under Section [80-2-1001](#).
- 7280 (53) "Mental illness" means:
7281 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,

7282 behavioral, or related functioning; or
7283 (b) the same as that term is defined in:
7284 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
7285 published by the American Psychiatric Association; or
7286 (ii) the current edition of the International Statistical Classification of Diseases and
7287 Related Health Problems.
7288 (54) "Minor" means, except as provided in Sections [80-6-501](#), [80-6-901](#), and [80-7-102](#):
7289 (a) a child; or
7290 (b) an individual:
7291 (i) (A) who is at least 18 years old and younger than 21 years old; and
7292 (B) for whom the Division of Child and Family Services has been specifically ordered
7293 by the juvenile court to provide services because the individual was an abused, neglected, or
7294 dependent child or because the individual was adjudicated for an offense;
7295 (ii) (A) who is at least 18 years old and younger than 25 years old; and
7296 (B) whose case is under the jurisdiction of the juvenile court in accordance with
7297 Subsection [78A-6-103\(1\)\(b\)](#); or
7298 (iii) (A) who is at least 18 years old and younger than 21 years old; and
7299 (B) whose case is under the jurisdiction of the juvenile court in accordance with
7300 Subsection [78A-6-103\(1\)\(c\)](#).
7301 (55) "Mobile crisis outreach team" means the same as that term is defined in Section
7302 ~~[62A-15-102]~~ [26B-5-101](#).
7303 (56) "Molestation" means that an individual, with the intent to arouse or gratify the
7304 sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,
7305 or the breast of a female child, or takes indecent liberties with a child as defined in Section
7306 [76-5-401.1](#).
7307 (57) (a) "Natural parent" means, except as provided in Section [80-3-302](#), a minor's
7308 biological or adoptive parent.
7309 (b) "Natural parent" includes the minor's noncustodial parent.
7310 (58) (a) "Neglect" means action or inaction causing:
7311 (i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe
7312 Relinquishment of a Newborn Child;

- 7313 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,
7314 guardian, or custodian;
- 7315 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary
7316 subsistence or medical care, or any other care necessary for the child's health, safety, morals, or
7317 well-being;
- 7318 (iv) a child to be at risk of being neglected or abused because another child in the same
7319 home is neglected or abused;
- 7320 (v) abandonment of a child through an unregulated child custody transfer under Section
7321 [78B-24-203](#); or
- 7322 (vi) educational neglect.
- 7323 (b) "Neglect" does not include:
- 7324 (i) a parent or guardian legitimately practicing religious beliefs and who, for that
7325 reason, does not provide specified medical treatment for a child;
- 7326 (ii) a health care decision made for a child by the child's parent or guardian, unless the
7327 state or other party to a proceeding shows, by clear and convincing evidence, that the health
7328 care decision is not reasonable and informed;
- 7329 (iii) a parent or guardian exercising the right described in Section [80-3-304](#); or
- 7330 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
7331 maturity to avoid harm or unreasonable risk of harm, to engage in independent activities,
7332 including:
- 7333 (A) traveling to and from school, including by walking, running, or bicycling;
- 7334 (B) traveling to and from nearby commercial or recreational facilities;
- 7335 (C) engaging in outdoor play;
- 7336 (D) remaining in a vehicle unattended, except under the conditions described in
7337 Subsection [76-10-2202](#)(2);
- 7338 (E) remaining at home unattended; or
- 7339 (F) engaging in a similar independent activity.
- 7340 (59) "Neglected child" means a child who has been subjected to neglect.
- 7341 (60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile
7342 probation officer, without an adjudication of the minor's case under Section [80-6-701](#), upon the
7343 consent in writing of:

- 7344 (a) the assigned juvenile probation officer; and
- 7345 (b) (i) the minor; or
- 7346 (ii) the minor and the minor's parent, guardian, or custodian.
- 7347 (61) "Not competent to proceed" means that a minor, due to a mental illness,
- 7348 intellectual disability or related condition, or developmental immaturity, lacks the ability to:
- 7349 (a) understand the nature of the proceedings against the minor or of the potential
- 7350 disposition for the offense charged; or
- 7351 (b) consult with counsel and participate in the proceedings against the minor with a
- 7352 reasonable degree of rational understanding.
- 7353 (62) "Parole" means a conditional release of a juvenile offender from residency in
- 7354 secure care to live outside of secure care under the supervision of the Division of Juvenile
- 7355 Justice Services, or another person designated by the Division of Juvenile Justice Services.
- 7356 (63) "Physical abuse" means abuse that results in physical injury or damage to a child.
- 7357 (64) (a) "Probation" means a legal status created by court order, following an
- 7358 adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's
- 7359 home under prescribed conditions.
- 7360 (b) "Probation" includes intake probation or formal probation.
- 7361 (65) "Prosecuting attorney" means:
- 7362 (a) the attorney general and any assistant attorney general;
- 7363 (b) any district attorney or deputy district attorney;
- 7364 (c) any county attorney or assistant county attorney; and
- 7365 (d) any other attorney authorized to commence an action on behalf of the state.
- 7366 (66) "Protective custody" means the shelter of a child by the Division of Child and
- 7367 Family Services from the time the child is removed from the home until the earlier of:
- 7368 (a) the day on which the shelter hearing is held under Section 80-3-301; or
- 7369 (b) the day on which the child is returned home.
- 7370 (67) "Protective services" means expedited services that are provided:
- 7371 (a) in response to evidence of neglect, abuse, or dependency of a child;
- 7372 (b) to a cohabitant who is neglecting or abusing a child, in order to:
- 7373 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
- 7374 causes of neglect or abuse; and

- 7375 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
7376 (c) in cases where the child's welfare is endangered:
7377 (i) to bring the situation to the attention of the appropriate juvenile court and law
7378 enforcement agency;
7379 (ii) to cause a protective order to be issued for the protection of the child, when
7380 appropriate; and
7381 (iii) to protect the child from the circumstances that endanger the child's welfare
7382 including, when appropriate:
7383 (A) removal from the child's home;
7384 (B) placement in substitute care; and
7385 (C) petitioning the court for termination of parental rights.
- 7386 (68) "Protective supervision" means a legal status created by court order, following an
7387 adjudication on the ground of abuse, neglect, or dependency, whereby:
7388 (a) the minor is permitted to remain in the minor's home; and
7389 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided
7390 by an agency designated by the juvenile court.
- 7391 (69) (a) "Related condition" means a condition that:
7392 (i) is found to be closely related to intellectual disability;
7393 (ii) results in impairment of general intellectual functioning or adaptive behavior
7394 similar to that of an intellectually disabled individual;
7395 (iii) is likely to continue indefinitely; and
7396 (iv) constitutes a substantial limitation to the individual's ability to function in society.
- 7397 (b) "Related condition" does not include mental illness, psychiatric impairment, or
7398 serious emotional or behavioral disturbance.
- 7399 (70) (a) "Residual parental rights and duties" means the rights and duties remaining
7400 with a parent after legal custody or guardianship, or both, have been vested in another person or
7401 agency, including:
7402 (i) the responsibility for support;
7403 (ii) the right to consent to adoption;
7404 (iii) the right to determine the child's religious affiliation; and
7405 (iv) the right to reasonable parent-time unless restricted by the court.

7406 (b) If no guardian has been appointed, "residual parental rights and duties" includes the
7407 right to consent to:

7408 (i) marriage;

7409 (ii) enlistment; and

7410 (iii) major medical, surgical, or psychiatric treatment.

7411 (71) "Runaway" means a child, other than an emancipated child, who willfully leaves
7412 the home of the child's parent or guardian, or the lawfully prescribed residence of the child,
7413 without permission.

7414 (72) "Secure care" means placement of a minor, who is committed to the Division of
7415 Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the
7416 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the
7417 minor.

7418 (73) "Secure care facility" means a facility, established in accordance with Section
7419 [80-5-503](#), for juvenile offenders in secure care.

7420 (74) "Secure detention" means temporary care of a minor who requires secure custody
7421 in a physically restricting facility operated by, or under contract with, the Division of Juvenile
7422 Justice Services:

7423 (a) before disposition of an offense that is alleged to have been committed by the
7424 minor; or

7425 (b) under Section [80-6-704](#).

7426 (75) "Serious youth offender" means an individual who:

7427 (a) is at least 14 years old, but under 25 years old;

7428 (b) committed a felony listed in Subsection [80-6-503](#)(1) and the continuing jurisdiction
7429 of the juvenile court was extended over the individual's case until the individual was 25 years
7430 old in accordance with Section [80-6-605](#); and

7431 (c) is committed by the juvenile court to the Division of Juvenile Justice Services for
7432 secure care under Sections [80-6-703](#) and [80-6-705](#).

7433 (76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a
7434 child.

7435 (77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a
7436 child.

- 7437 (78) (a) "Severe type of child abuse or neglect" means, except as provided in
7438 Subsection (78)(b):
- 7439 (i) if committed by an individual who is 18 years old or older:
- 7440 (A) chronic abuse;
- 7441 (B) severe abuse;
- 7442 (C) sexual abuse;
- 7443 (D) sexual exploitation;
- 7444 (E) abandonment;
- 7445 (F) chronic neglect; or
- 7446 (G) severe neglect; or
- 7447 (ii) if committed by an individual who is under 18 years old:
- 7448 (A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another
7449 child that indicates a significant risk to other children; or
- 7450 (B) sexual behavior with or upon another child that indicates a significant risk to other
7451 children.
- 7452 (b) "Severe type of child abuse or neglect" does not include:
- 7453 (i) the use of reasonable and necessary physical restraint by an educator in accordance
7454 with Subsection 53G-8-302(2) or Section 76-2-401;
- 7455 (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the
7456 use of reasonable and necessary physical restraint or force in self-defense or otherwise
7457 appropriate to the circumstances to obtain possession of a weapon or other dangerous object in
7458 the possession or under the control of a child or to protect the child or another individual from
7459 physical injury; or
- 7460 (iii) a health care decision made for a child by a child's parent or guardian, unless,
7461 subject to Subsection (78)(c), the state or other party to the proceeding shows, by clear and
7462 convincing evidence, that the health care decision is not reasonable and informed.
- 7463 (c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the
7464 right to obtain a second health care opinion.
- 7465 (79) "Sexual abuse" means:
- 7466 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
7467 adult directed towards a child;

- 7468 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
7469 committed by a child towards another child if:
- 7470 (i) there is an indication of force or coercion;
 - 7471 (ii) the children are related, as described in Subsection (39), including siblings by
7472 marriage while the marriage exists or by adoption;
 - 7473 (iii) there have been repeated incidents of sexual contact between the two children,
7474 unless the children are 14 years old or older; or
 - 7475 (iv) there is a disparity in chronological age of four or more years between the two
7476 children;
- 7477 (c) engaging in any conduct with a child that would constitute an offense under any of
7478 the following, regardless of whether the individual who engages in the conduct is actually
7479 charged with, or convicted of, the offense:
- 7480 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the
7481 alleged perpetrator of an offense described in Section 76-5-401 is a minor;
 - 7482 (ii) child bigamy, Section 76-7-101.5;
 - 7483 (iii) incest, Section 76-7-102;
 - 7484 (iv) lewdness, Section 76-9-702;
 - 7485 (v) sexual battery, Section 76-9-702.1;
 - 7486 (vi) lewdness involving a child, Section 76-9-702.5; or
 - 7487 (vii) voyeurism, Section 76-9-702.7; or
- 7488 (d) subjecting a child to participate in or threatening to subject a child to participate in
7489 a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural
7490 marriage.
- 7491 (80) "Sexual exploitation" means knowingly:
- 7492 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
 - 7493 (i) pose in the nude for the purpose of sexual arousal of any individual; or
 - 7494 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,
7495 filming, recording, or displaying in any way the sexual or simulated sexual conduct;
 - 7496 (b) displaying, distributing, possessing for the purpose of distribution, or selling
7497 material depicting a child:
 - 7498 (i) in the nude, for the purpose of sexual arousal of any individual; or

7499 (ii) engaging in sexual or simulated sexual conduct; or

7500 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,

7501 sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a

7502 minor, regardless of whether the individual who engages in the conduct is actually charged

7503 with, or convicted of, the offense.

7504 (81) "Shelter" means the temporary care of a child in a physically unrestricted facility

7505 pending a disposition or transfer to another jurisdiction.

7506 (82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.

7507 (83) "Significant risk" means a risk of harm that is determined to be significant in

7508 accordance with risk assessment tools and rules established by the Division of Child and

7509 Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

7510 Act, that focus on:

7511 (a) age;

7512 (b) social factors;

7513 (c) emotional factors;

7514 (d) sexual factors;

7515 (e) intellectual factors;

7516 (f) family risk factors; and

7517 (g) other related considerations.

7518 (84) "Single criminal episode" means the same as that term is defined in Section

7519 76-1-401.

7520 (85) "Status offense" means an offense that would not be an offense but for the age of

7521 the offender.

7522 (86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or

7523 excessive use of alcohol or other drugs or substances.

7524 (87) "Substantiated" or "substantiation" means a judicial finding based on a

7525 preponderance of the evidence, and separate consideration of each allegation made or identified

7526 in the case, that abuse, neglect, or dependency occurred .

7527 (88) "Substitute care" means:

7528 (a) the placement of a minor in a family home, group care facility, or other placement

7529 outside the minor's own home, either at the request of a parent or other responsible relative, or

7530 upon court order, when it is determined that continuation of care in the minor's own home
7531 would be contrary to the minor's welfare;

7532 (b) services provided for a minor in the protective custody of the Division of Child and
7533 Family Services, or a minor in the temporary custody or custody of the Division of Child and
7534 Family Services, as those terms are defined in Section 80-2-102; or

7535 (c) the licensing and supervision of a substitute care facility.

7536 (89) "Supported" means a finding by the Division of Child and Family Services based
7537 on the evidence available at the completion of an investigation, and separate consideration of
7538 each allegation made or identified during the investigation, that there is a reasonable basis to
7539 conclude that abuse, neglect, or dependency occurred.

7540 (90) "Termination of parental rights" means the permanent elimination of all parental
7541 rights and duties, including residual parental rights and duties, by court order.

7542 (91) "Therapist" means:

7543 (a) an individual employed by a state division or agency for the purpose of conducting
7544 psychological treatment and counseling of a minor in the division's or agency's custody; or

7545 (b) any other individual licensed or approved by the state for the purpose of conducting
7546 psychological treatment and counseling.

7547 (92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating
7548 that the child is at an unreasonable risk of harm or neglect.

7549 (93) "Ungovernable" means a child in conflict with a parent or guardian, and the
7550 conflict:

7551 (a) results in behavior that is beyond the control or ability of the child, or the parent or
7552 guardian, to manage effectively;

7553 (b) poses a threat to the safety or well-being of the child, the child's family, or others;

7554 or

7555 (c) results in the situations described in Subsections (93)(a) and (b).

7556 (94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to
7557 conclude that abuse, neglect, or dependency occurred.

7558 (95) "Unsupported" means a finding by the Division of Child and Family Services at
7559 the completion of an investigation, after the day on which the Division of Child and Family
7560 Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is

7561 insufficient evidence to conclude that abuse, neglect, or dependency occurred.

7562 (96) "Validated risk and needs assessment" means an evidence-based tool that assesses
7563 a minor's risk of reoffending and a minor's criminogenic needs.

7564 (97) "Without merit" means a finding at the completion of an investigation by the
7565 Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or
7566 dependency did not occur, or that the alleged perpetrator was not responsible for the abuse,
7567 neglect, or dependency.

7568 (98) "Youth offender" means an individual who is:

7569 (a) at least 12 years old, but under 21 years old; and

7570 (b) committed by the juvenile court to the Division of Juvenile Justice Services for
7571 secure care under Sections [80-6-703](#) and [80-6-705](#).

7572 Section 126. Section **80-1-103** is amended to read:

7573 **80-1-103. Cooperation of political subdivisions and public or private agencies**
7574 **and organizations.**

7575 (1) Every county, municipality, and school district, and the Department of [~~Human~~
7576 ~~Services~~] Health and Human Services, the Division of Juvenile Justice Services, the Division
7577 of Child and Family Services, the Department of Health, the Division of Substance Abuse and
7578 Mental Health, the State Board of Education, and state and local law enforcement officers,
7579 shall render all assistance and cooperation within their jurisdiction and power to further the
7580 provisions of this title.

7581 (2) A juvenile court is authorized to seek the cooperation of all agencies and
7582 organizations, public or private, whose objective is the protection or aid of minors.

7583 Section 127. Section **80-2-501** is amended to read:

7584 **80-2-501. Children's Account.**

7585 (1) There is created a restricted account within the General Fund known as the
7586 "Children's Account."

7587 (2) The account shall be funded by:

7588 (a) appropriations to the account by the Legislature;

7589 (b) revenues received under Section [~~26-2-12.5~~] [26B-8-112](#); and

7590 (c) transfers, grants, gifts, bequests, or any money made available from any source for
7591 the abuse and neglect prevention programs described in Subsection [80-2-503](#)(3).

7592 (3) The Legislature shall appropriate money in the account to the division.

7593 (4) (a) The director shall consult with the executive director of the department before
7594 using the funds in the account as described in this section.

7595 (b) Except as provided in Subsection (5), the account may be used only to implement
7596 prevention programs described in Section [80-2-503](#), and may only be allocated to an entity that
7597 provides a one-to-one match, comprising a match from the community of at least 50% in cash
7598 and up to 50% in in-kind donations, which is 25% of the total funding received from the
7599 account.

7600 (5) Upon recommendation of the executive director of the department and the council,
7601 the division may reduce or waive the match requirements described in Subsection (4) for an
7602 entity, if the division determines that imposing the requirements would prohibit or limit the
7603 provision of services needed in a particular geographic area.

7604 Section 128. Section **80-2-603** is amended to read:

7605 **80-2-603. Fetal alcohol syndrome or spectrum disorder and drug dependency**
7606 **reporting requirements.**

7607 (1) As used in this section:

7608 (a) "Health care provider" means:

7609 (i) an individual licensed under:

7610 (A) Title 58, Chapter 31b, Nurse Practice Act;

7611 (B) Title 58, Chapter 44a, Nurse Midwife Practice Act;

7612 (C) Title 58, Chapter 67, Utah Medical Practice Act;

7613 (D) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

7614 (E) Title 58, Chapter 70a, Utah Physician Assistant Act; or

7615 (F) Title 58, Chapter 77, Direct-Entry Midwife Act; or

7616 (ii) an unlicensed individual who practices midwifery.

7617 (b) "Newborn child" means a child who is 30 days old or younger.

7618 (c) "Recommending medical provider" means the same as that term is defined in
7619 Section ~~[26-61a-102]~~ [26B-4-201](#).

7620 (d) (i) "Substance abuse" means, except as provided in Subsection (1)(d)(ii), the same
7621 as that term is defined in Section [80-1-102](#).

7622 (ii) "Substance abuse" does not include use of drugs or other substances that are:

7623 (A) obtained by lawful prescription and used as prescribed; or
7624 (B) obtained in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~]
7625 Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and used as
7626 recommended by a recommending medical provider.

7627 (2) A health care provider who attends the birth of a newborn child or cares for a
7628 newborn child and determines the following, shall report the determination to the division as
7629 soon as possible:

7630 (a) the newborn child:

7631 (i) is adversely affected by the child's mother's substance abuse during pregnancy;

7632 (ii) has fetal alcohol syndrome or fetal alcohol spectrum disorder; or

7633 (iii) demonstrates drug or alcohol withdrawal symptoms; or

7634 (b) the parent of the newborn child or a person responsible for the child's care
7635 demonstrates functional impairment or an inability to care for the child as a result of the
7636 parent's or person's substance abuse.

7637 (3) The physician-patient privilege does not:

7638 (a) excuse an individual who is licensed under Title 58, Chapter 67, Utah Medical
7639 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from reporting
7640 under this section; or

7641 (b) constitute grounds for excluding evidence regarding the child's injuries, or the
7642 cause of the child's injuries, in a judicial or administrative proceeding resulting from a report
7643 under this section.

7644 Section 129. Section **80-2-604** is amended to read:

7645 **80-2-604. Death of a child reporting requirements.**

7646 (1) A person who has reason to believe that a child has died as a result of abuse or
7647 neglect shall report that fact to:

7648 (a) the local law enforcement agency; and

7649 (b) the appropriate medical examiner in accordance with [~~Title 26, Chapter 4, Utah
7650 Medical Examiner Act~~] Title 26B, Chapter 8, Part 2, Utah Medical Examiner.

7651 (2) After receiving a report described in Subsection (1):

7652 (a) the local law enforcement agency shall report to the county attorney or district
7653 attorney as provided under Section [17-18a-202](#) or [17-18a-203](#); and

7654 (b) the medical examiner shall investigate and report the medical examiner's findings
7655 to:

7656 (i) the police;

7657 (ii) the appropriate county attorney or district attorney;

7658 (iii) the attorney general's office;

7659 (iv) the division; and

7660 (v) if the institution making the report is a hospital, to the hospital.

7661 Section 130. Section **80-2-802** is amended to read:

7662 **80-2-802. Division child placing and adoption services -- Restrictions on**
7663 **placement of a child.**

7664 (1) Except as provided in Subsection (3), the division may provide adoption services
7665 and, as a licensed child-placing agency under [~~Title 62A, Chapter 2, Licensure of Programs and~~
7666 ~~Facilities~~] Title 26B, Chapter 2, Part 2, Human Services Programs and Facilities, engage in
7667 child placing in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a
7668 Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination
7669 and Restoration of Parental Rights.

7670 (2) The division shall base the division's decision for placement of an adoptable child
7671 for adoption on the best interest of the adoptable child.

7672 (3) The division may not:

7673 (a) in accordance with Subsection [~~62A-2-108.6(6)~~] 26B-2-127(6), place a child for
7674 adoption, either temporarily or permanently, with an individual who does not qualify for
7675 adoptive placement under Sections 78B-6-102, 78B-6-117, and 78B-6-137;

7676 (b) consider a potential adoptive parent's willingness or unwillingness to enter a
7677 postadoption contact agreement under Section 78B-6-146 as a condition of placing a child with
7678 a potential adoptive parent; or

7679 (c) except as required under the Indian Child Welfare Act, 25 U.S.C. Secs. 1901
7680 through 1963, base the division's decision for placement of an adoptable child on the race,
7681 color, ethnicity, or national origin of either the child or the potential adoptive parent.

7682 (4) The division shall establish a rule in accordance with Title 63G, Chapter 3, Utah
7683 Administrative Rulemaking Act, providing that, subject to Subsection (3) and Section
7684 78B-6-117, priority of placement shall be provided to a family in which a couple is legally

7685 married under the laws of the state.

7686 (5) Subsections (3) and (4) do not limit the placement of a child with the child's
7687 biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25
7688 U.S.C. Sec. 1901 et seq.

7689 Section 131. Section **80-2-803** is amended to read:

7690 **80-2-803. Division promotion of adoption -- Adoption research and informational**
7691 **pamphlet.**

7692 The division shall:

7693 (1) [~~in accordance with Section 62A-2-126,~~] actively promote the adoption of all
7694 children in the division's custody who have a final plan for termination of parental rights under
7695 Section **80-3-409** or a primary permanency plan of adoption;

7696 (2) develop plans for the effective use of cross-jurisdictional resources to facilitate
7697 timely adoptive or permanent placements for waiting children;

7698 (3) obtain information or conduct research regarding prior adoptive families to
7699 determine what families may do to be successful with an adoptive child;

7700 (4) make the information or research described in Subsection (3) available to potential
7701 adoptive parents;

7702 (5) prepare a pamphlet that explains the information that a child-placing agency is
7703 required to provide a potential adoptive parent under Subsection [~~62A-2-126(2)(b)~~]
7704 78B-24-303;

7705 (6) regularly distribute copies of the pamphlet described in Subsection (5) to
7706 child-placing agencies; and

7707 (7) respond to an inquiry made as a result of the notice provided by a child-placing
7708 agency under Subsection [~~62A-2-126(2)(b)~~] 78B-24-303.

7709 Section 132. Section **80-2-804** is amended to read:

7710 **80-2-804. Adoptive placement time frame -- Division contracts with child-placing**
7711 **agencies.**

7712 (1) Subject to this part, for a child who has a primary permanency plan of adoption or
7713 for whom a final plan for pursuing termination of parental rights is approved in accordance
7714 with Section **80-3-409**, the division shall make intensive efforts to place the child in an
7715 adoptive home within 30 days after the earlier of the day on which:

7716 (a) the final plan is approved; or

7717 (b) the primary permanency plan is established.

7718 (2) If within the time periods described in Subsection (1) the division is unable to
 7719 locate a suitable adoptive home, the division shall~~[- in accordance with Section [62A-2-126](#);~~
 7720]contract with a variety of child-placing agencies licensed under [~~Title [62A](#), Chapter 2,~~
 7721 ~~Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs
 7722 and Facilities, to search for an appropriate adoptive home for the child, and to place the child
 7723 for adoption.

7724 Section 133. Section **80-2-909** is amended to read:

7725 **80-2-909. Existing authority for child placement continues.**

7726 Any person who, under any law of this state other than this part or the Interstate
 7727 Compact on the Placement of Children established under Section [80-2-905](#), has authority to
 7728 make or assist in making the placement of a child, shall continue to have the ability lawfully to
 7729 make or assist in making that placement, and the provisions of Sections [~~[62A-2-108.6](#);~~
 7730 ~~[62A-2-115.1](#), [62A-2-115.2](#), [62A-2-126](#), [62A-2-127](#)~~] [26B-2-127](#), [26B-2-131](#), [26B-2-132](#),
 7731 [26B-2-133](#), Subsections [80-2-802](#)(3)(a) and (4) and [80-2-803](#)(1), (2), and (5) through (7), and
 7732 Title 78B, Chapter 6, Part 1, Utah Adoption Act, continue to apply.

7733 Section 134. Section **80-2-1001** is amended to read:

7734 **80-2-1001. Management Information System -- Contents -- Classification of**
 7735 **records -- Access.**

7736 (1) The division shall develop and implement a Management Information System that
 7737 meets the requirements of this section and the requirements of federal law and regulation.

7738 (2) The Management Information System shall:

7739 (a) contain all key elements of each family's current child and family plan, including:

7740 (i) the dates and number of times the plan has been administratively or judicially
 7741 reviewed;

7742 (ii) the number of times the parent failed the child and family plan; and

7743 (iii) the exact length of time the child and family plan has been in effect; and

7744 (b) alert child welfare caseworkers regarding deadlines for completion of and
 7745 compliance with policy, including child and family plans.

7746 (3) For a child welfare case, the Management Information System shall provide each

7747 child welfare caseworker and the Office of Licensing created in Section [[62A-2-103](#)]
7748 [26B-2-103](#), exclusively for the purposes of foster parent licensure and monitoring, with a
7749 complete history of each child in the child welfare caseworker's caseload, including:

- 7750 (a) a record of all past action taken by the division with regard to the child and the
7751 child's siblings;
- 7752 (b) the complete case history and all reports and information in the control or keeping
7753 of the division regarding the child and the child's siblings;
- 7754 (c) the number of times the child has been in the protective custody, temporary
7755 custody, and custody of the division;
- 7756 (d) the cumulative period of time the child has been in the custody of the division;
- 7757 (e) a record of all reports of abuse or neglect received by the division with regard to the
7758 child's parent or guardian including:
 - 7759 (i) for each report, documentation of the:
 - 7760 (A) latest status; or
 - 7761 (B) final outcome or determination; and
 - 7762 (ii) information that indicates whether each report was found to be:
 - 7763 (A) supported;
 - 7764 (B) unsupported;
 - 7765 (C) substantiated;
 - 7766 (D) unsubstantiated; or
 - 7767 (E) without merit;
 - 7768 (f) the number of times the child's parent failed any child and family plan; and
 - 7769 (g) the number of different child welfare caseworkers who have been assigned to the
7770 child in the past.
- 7771 (4) For child protective services cases, the Management Information System shall:
 - 7772 (a) monitor the compliance of each case with:
 - 7773 (i) division rule;
 - 7774 (ii) state law; and
 - 7775 (iii) federal law and regulation; and
 - 7776 (b) include the age and date of birth of the alleged perpetrator at the time the abuse or
7777 neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of

7778 the alleged perpetrator.

7779 (5) Information or a record contained in the Management Information System is:

7780 (a) a private, controlled, or protected record under Title 63G, Chapter 2, Government
7781 Records Access and Management Act; and

7782 (b) available only:

7783 (i) to a person or government entity with statutory authorization under Title 63G,
7784 Chapter 2, Government Records Access and Management Act, to review the information or
7785 record;

7786 (ii) to a person who has specific statutory authorization to access the information or
7787 record for the purpose of assisting the state with state or federal requirements to maintain
7788 information solely for the purpose of protecting minors and providing services to families in
7789 need;

7790 (iii) to the extent required by Title IV(b) or IV(e) of the Social Security Act:

7791 (A) to comply with abuse and neglect registry checks requested by other states; or

7792 (B) to the United States Department of Health and Human Services for purposes of
7793 maintaining an electronic national registry of supported or substantiated cases of abuse and
7794 neglect;

7795 (iv) to the department, upon the approval of the executive director of the department,
7796 on a need-to-know basis; or

7797 (v) as provided in Subsection (6) or Section [80-2-1002](#).

7798 (6) (a) The division may allow a division contract provider, court clerk designated by
7799 the Administrative Office of the Courts, the Office of Guardian Ad Litem, or Indian tribe to
7800 have limited access to the Management Information System.

7801 (b) A division contract provider or Indian tribe has access only to information about a
7802 person who is currently receiving services from the specific contract provider or Indian tribe.

7803 (c) A court clerk may only have access to information necessary to comply with
7804 Subsection [78B-7-202\(2\)](#).

7805 (d) (i) The Office of Guardian Ad Litem may only access:

7806 (A) the information that is entered into the Management Information System on or after
7807 July 1, 2004, and relates to a child or family where the Office of Guardian Ad Litem is
7808 appointed by a court to represent the interests of the child; or

7809 (B) any abuse or neglect referral about a child or family where the office has been
7810 appointed by a court to represent the interests of the child, regardless of the date that the
7811 information is entered into the Management Information System.

7812 (ii) The division may use the information in the Management Information System to
7813 screen an individual as described in Subsection 80-2-1002(4)(b)(ii)(A) at the request of the
7814 Office of Guardian Ad Litem.

7815 (e) A contract provider or designated representative of the Office of Guardian Ad
7816 Litem or an Indian tribe who requests access to information contained in the Management
7817 Information System shall:

7818 (i) take all necessary precautions to safeguard the security of the information contained
7819 in the Management Information System;

7820 (ii) train its employees regarding:

7821 (A) requirements for protecting the information contained in the Management
7822 Information System under this chapter and under Title 63G, Chapter 2, Government Records
7823 Access and Management Act; and

7824 (B) the criminal penalties under Sections 63G-2-801 and 80-2-1005 for improper
7825 release of information; and

7826 (iii) monitor its employees to ensure that the employees protect the information
7827 contained in the Management Information System as required by law.

7828 (7) The division shall take:

7829 (a) all necessary precautions, including password protection and other appropriate and
7830 available technological techniques, to prevent unauthorized access to or release of information
7831 contained in the Management Information System; and

7832 (b) reasonable precautions to ensure that the division's contract providers comply with
7833 Subsection (6).

7834 Section 135. Section 80-2-1002 is amended to read:

7835 **80-2-1002. Licensing Information System -- Contents -- Classification of records**
7836 **-- Access -- Unlawful release -- Penalty.**

7837 (1) (a) The division shall maintain a sub-part of the Management Information System
7838 as the Licensing Information System to be used:

7839 (i) for licensing purposes; or

7840 (ii) as otherwise provided by law.

7841 (b) Notwithstanding Subsection (1)(a), the department's access to information in the
7842 Management Information System for the licensure and monitoring of a foster parent is
7843 governed by Sections [80-2-1001](#) and [~~62A-2-121~~] [26B-2-121](#).

7844 (2) The Licensing Information System shall include only the following information:

7845 (a) the name and other identifying information of the alleged perpetrator in a supported
7846 finding, without identifying the alleged perpetrator as a perpetrator or alleged perpetrator;

7847 (b) a notation to the effect that an investigation regarding the alleged perpetrator
7848 described in Subsection (2)(a) is pending;

7849 (c) the information described in Subsection (3);

7850 (d) consented-to supported findings by an alleged perpetrator under Subsection
7851 [80-2-708\(3\)\(a\)\(iii\)](#);

7852 (e) a finding from the juvenile court under Section [80-3-404](#); and

7853 (f) the information in the licensing part of the division's Management Information
7854 System as of May 6, 2002.

7855 (3) Subject to Section [80-2-1003](#), upon receipt of a finding from the juvenile court
7856 under Section [80-3-404](#), the division shall:

7857 (a) promptly amend the Licensing Information System to include the finding; and

7858 (b) enter the finding in the Management Information System.

7859 (4) Information or a record contained in the Licensing Information System is:

7860 (a) a protected record under Title 63G, Chapter 2, Government Records Access and
7861 Management Act; and

7862 (b) notwithstanding Title 63G, Chapter 2, Government Records Access and
7863 Management Act, accessible only:

7864 (i) to the Office of Licensing created in Section [~~62A-2-103~~] [26B-2-103](#):

7865 (A) for licensing purposes; or

7866 (B) as otherwise specifically provided for by law;

7867 (ii) to the division to:

7868 (A) screen an individual at the request of the Office of Guardian Ad Litem at the time
7869 the individual seeks a paid or voluntary position with the Office of Guardian Ad Litem and
7870 annually throughout the time that the individual remains with the Office of Guardian Ad Litem;

7871 and

7872 (B) respond to a request for information from an individual whose name is listed in the
7873 Licensing Information System;

7874 (iii) to a person designated by the Department of Health and approved by the

7875 Department of Human Services, only for the following purposes:

7876 (A) licensing a child care program or provider;

7877 (B) determining whether an individual associated with a child care facility, program, or

7878 provider, who is exempt from being licensed or certified by the [~~Department of Health under~~

7879 ~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Department of Health and Human

7880 Services under Title 26B, Chapter 2, Part 4, Child Care Licensing, has a supported finding of a

7881 severe type of child abuse or neglect; or

7882 (C) determining whether an individual who is seeking an emergency medical services

7883 license has a supported finding of a severe type of child abuse or neglect;

7884 (iv) to a person designated by the Department of Workforce Services and approved by

7885 the Department of [~~Human Services~~] Health and Human Services for the purpose of qualifying

7886 a child care provider under Section [35A-3-310.5](#);

7887 (v) as provided in Section [~~62A-2-121~~] [26B-2-121](#); or

7888 (vi) to the department or another person, as provided in this chapter.

7889 (5) A person designated by the Department of [~~Health~~] Health and Human Services or

7890 the Department of Workforce Services under Subsection (4) shall adopt measures to:

7891 (a) protect the security of the Licensing Information System; and

7892 (b) strictly limit access to the Licensing Information System to persons allowed access

7893 by statute.

7894 (6) The department shall approve a person allowed access by statute to information or a

7895 record contained in the Licensing Information System and provide training to the person with

7896 respect to:

7897 (a) accessing the Licensing Information System;

7898 (b) maintaining strict security; and

7899 (c) the criminal provisions of Sections [63G-2-801](#) and [80-2-1005](#) pertaining to the

7900 improper release of information.

7901 (7) (a) Except as authorized by this chapter, a person may not request another person to

7902 obtain or release any other information in the Licensing Information System to screen for
7903 potential perpetrators of abuse or neglect.

7904 (b) A person who requests information knowing that the request is a violation of this
7905 Subsection (7) is subject to the criminal penalties described in Sections 63G-2-801 and
7906 80-2-1005.

7907 Section 136. Section 80-2-1005 is amended to read:

7908 **80-2-1005. Classification of reports of alleged abuse or neglect -- Confidential**
7909 **identity of a person who reports -- Access -- Admitting reports into evidence -- Unlawful**
7910 **release and use -- Penalty.**

7911 (1) Except as otherwise provided in this chapter or Chapter 2a, Removal and Protective
7912 Custody of a Child, a report made under Part 6, Child Abuse and Neglect Reports, and any
7913 other information in the possession of the division obtained as a result of the report is a private,
7914 protected, or controlled record under Title 63G, Chapter 2, Government Records Access and
7915 Management Act, and may only be made available to:

7916 (a) a police or law enforcement agency investigating a report of known or suspected
7917 abuse or neglect, including members of a child protection team;

7918 (b) a physician who reasonably believes that a child may be the subject of abuse or
7919 neglect;

7920 (c) an agency that has responsibility or authority to care for, treat, or supervise a minor
7921 who is the subject of a report;

7922 (d) a contract provider that has a written contract with the division to render services to
7923 a minor who is the subject of a report;

7924 (e) the subject of the report, the natural parents of the child, and the guardian ad litem;

7925 (f) a court, upon a finding that access to the records may be necessary for the
7926 determination of an issue before the court, provided that in a divorce, custody, or related
7927 proceeding between private parties, the record alone is:

7928 (i) limited to objective or undisputed facts that were verified at the time of the
7929 investigation; and

7930 (ii) devoid of conclusions drawn by the division or any of the division's workers on the
7931 ultimate issue of whether or not an individual's acts or omissions constituted any level of abuse
7932 or neglect of another individual;

7933 (g) an office of the public prosecutor or the public prosecutor's deputies in performing
7934 an official duty;

7935 (h) a person authorized by a Children's Justice Center, for the purposes described in
7936 Section [67-5b-102](#);

7937 (i) a person engaged in bona fide research, when approved by the director of the
7938 division, if the information does not include names and addresses;

7939 (j) the State Board of Education, acting on behalf of itself or on behalf of a local
7940 education agency, as defined in Section [63J-5-102](#), for the purpose of evaluating whether an
7941 individual should be permitted to obtain or retain a license as an educator or serve as an
7942 employee or volunteer in a school, limited to information with substantiated or supported
7943 findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug
7944 offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against
7945 the Individual, and with the understanding that the office must provide the subject of a report
7946 received under Subsection (1)(k) with an opportunity to respond to the report before making a
7947 decision concerning licensure or employment;

7948 (k) any individual identified in the report as a perpetrator or possible perpetrator of
7949 abuse or neglect, after being advised of the screening prohibition in Subsection (2);

7950 (l) a person filing a petition for a child protective order on behalf of a child who is the
7951 subject of the report;

7952 (m) a licensed child-placing agency or person who is performing a placement
7953 adoptive evaluation in accordance with the requirements of Sections [78B-6-128](#) and
7954 [78B-6-130](#);

7955 (n) an Indian tribe to:

7956 (i) certify or license a foster home;

7957 (ii) render services to a subject of a report; or

7958 (iii) investigate an allegation of abuse, neglect, or dependency; or

7959 (o) the department or a local substance abuse authority, described in Section
7960 [17-43-201](#), for the purpose of providing substance abuse treatment to a pregnant woman or a
7961 parent of a newborn child, or the services described in Subsection [~~[62A-15-103\(2\)\(p\)](#)~~
7962 [26B-5-102\(2\)\(p\)](#)].

7963 (2) In accordance with Section [80-2-608](#) and except as provided in Section [80-2-611](#),

7964 the division and a law enforcement agency shall ensure the anonymity of the person who makes
7965 the initial report under Part 6, Child Abuse and Neglect Reports, and any other person involved
7966 in the division's or law enforcement agency's subsequent investigation of the report.

7967 (3) Notwithstanding any other provision of law, excluding Section [80-3-107](#), but
7968 including this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Title 63G,
7969 Chapter 2, Government Records Access and Management Act, if the division makes a report or
7970 other information in the division's possession available under Subsection (1)(e) to a subject of
7971 the report or a parent of a child, the division shall remove from the report or other information
7972 only the names, addresses, and telephone numbers of individuals or specific information that
7973 could:

- 7974 (a) identify the referent;
- 7975 (b) impede a criminal investigation; or
- 7976 (c) endanger an individual's safety.

7977 (4) A child-placing agency or person who receives a report from the division under
7978 Subsection (1)(m) may provide the report to:

- 7979 (a) the subject of the report;
- 7980 (b) a person who is performing a preplacement adoptive evaluation in accordance with
7981 Sections [78B-6-128](#) and [78B-6-130](#);
- 7982 (c) to a licensed child-placing agency; or
- 7983 (d) an attorney seeking to facilitate an adoption.

7984 (5) A member of a child protection team may, before the day on which the child is
7985 removed, share case-specific information obtained from the division under this section with
7986 other members of the child protection team.

7987 (6) (a) Except as provided in Subsection (6)(b), in a divorce, custody, or related
7988 proceeding between private parties, a court may not receive into evidence a report that:

- 7989 (i) is provided to the court:
 - 7990 (A) under Subsection (1)(f); or
 - 7991 (B) by a parent of the child after the record is made available to the parent under
7992 Subsection (1)(e);
- 7993 (ii) describes a parent of the child as the alleged perpetrator; and
- 7994 (iii) is found to be unsubstantiated, unsupported, or without merit.

7995 (b) (i) After a motion to admit the report described in Subsection (6)(a) is made, the
7996 court shall allow sufficient time for all subjects of the record to respond before making a
7997 finding on the motion.

7998 (ii) After considering the motion described in Subsection (6)(b)(i), the court may
7999 receive the report into evidence upon a finding on the record of good cause.

8000 (7) (a) A person may not:

8001 (i) willfully permit, or aid and abet, the release of data or information in the possession
8002 of the division or contained in the Management Information System in violation of this part or
8003 Part 6, Child Abuse and Neglect Reports; or

8004 (ii) if the person is not listed in Subsection (1), request another person to obtain or
8005 release a report or other information that the other person obtained under Subsection (1)(k) to
8006 screen for potential perpetrators of abuse or neglect.

8007 (b) A person who violates Subsection (7)(a)(i), or violates Subsection (7)(a)(ii)
8008 knowing the person's actions are a violation of Subsection (7)(a)(ii), is guilty of a class C
8009 misdemeanor.

8010 Section 137. Section **80-2a-202** is amended to read:

8011 **80-2a-202. Removal of a child by a peace officer or child welfare caseworker --**
8012 **Search warrants -- Protective custody and temporary care of a child.**

8013 (1) A peace officer or child welfare caseworker may remove a child or take a child into
8014 protective custody, temporary custody, or custody in accordance with this section.

8015 (2) (a) Except as provided in Subsection (2)(b), a peace officer or a child welfare
8016 caseworker may not enter the home of a child whose case is not under the jurisdiction of the
8017 juvenile court, remove a child from the child's home or school, or take a child into protective
8018 custody unless:

8019 (i) there exist exigent circumstances sufficient to relieve the peace officer or the child
8020 welfare caseworker of the requirement to obtain a search warrant under Subsection (3);

8021 (ii) the peace officer or child welfare caseworker obtains a search warrant under
8022 Subsection (3);

8023 (iii) the peace officer or child welfare caseworker obtains a court order after the child's
8024 parent or guardian is given notice and an opportunity to be heard; or

8025 (iv) the peace officer or child welfare caseworker obtains the consent of the child's

8026 parent or guardian.

8027 (b) A peace officer or a child welfare caseworker may not take action under Subsection
8028 (2)(a) solely on the basis of:

8029 (i) educational neglect, truancy, or failure to comply with a court order to attend
8030 school; or

8031 (ii) the possession or use, in accordance with [~~Title 26, Chapter 61a, Utah Medical~~
8032 ~~Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, of
8033 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a
8034 medical cannabis device, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201.

8035 (3) (a) The juvenile court may issue a warrant authorizing a peace officer or a child
8036 welfare caseworker to search for a child and take the child into protective custody if it appears
8037 to the juvenile court upon a verified petition, recorded sworn testimony or an affidavit sworn to
8038 by a peace officer or another individual, and upon the examination of other witnesses if
8039 required by the juvenile court, that there is probable cause to believe that:

8040 (i) there is a threat of substantial harm to the child's health or safety;

8041 (ii) it is necessary to take the child into protective custody to avoid the harm described
8042 in Subsection (3)(a)(i); and

8043 (iii) it is likely that the child will suffer substantial harm if the child's parent or
8044 guardian is given notice and an opportunity to be heard before the child is taken into protective
8045 custody.

8046 (b) In accordance with Section 77-23-210, a peace officer making the search under
8047 Subsection (3)(a) may enter a house or premises by force, if necessary, in order to remove the
8048 child.

8049 (4) (a) A child welfare caseworker may take action under Subsection (2) accompanied
8050 by a peace officer or without a peace officer if a peace officer is not reasonably available.

8051 (b) (i) Before taking a child into protective custody, and if possible and consistent with
8052 the child's safety and welfare, a child welfare caseworker shall determine whether there are
8053 services available that, if provided to a parent or guardian of the child, would eliminate the
8054 need to remove the child from the custody of the child's parent or guardian.

8055 (ii) In determining whether the services described in Subsection (4)(b)(i) are
8056 reasonably available, the child welfare caseworker shall consider the child's health, safety, and

8057 welfare as the paramount concern.

8058 (iii) If the child welfare caseworker determines the services described in Subsection
8059 (4)(b)(i) are reasonably available, the services shall be utilized.

8060 (5) (a) If a peace officer or a child welfare caseworker takes a child into protective
8061 custody under Subsection (2), the peace officer or child welfare caseworker shall:

8062 (i) notify the child's parent or guardian in accordance with Section 80-2a-203; and

8063 (ii) release the child to the care of the child's parent or guardian or another responsible
8064 adult, unless:

8065 (A) the child's immediate welfare requires the child remain in protective custody; or

8066 (B) the protection of the community requires the child's detention in accordance with
8067 Chapter 6, Part 2, Custody and Detention.

8068 (b) (i) If a peace officer or child welfare caseworker is executing a warrant under
8069 Subsection (3), the peace officer or child welfare caseworker shall take the child to:

8070 (A) a shelter facility; or

8071 (B) if the division makes an emergency placement under Section 80-2a-301, the
8072 emergency placement.

8073 (ii) If a peace officer or a child welfare caseworker takes a child to a shelter facility
8074 under Subsection (5)(b)(i), the peace officer or the child welfare caseworker shall promptly file
8075 a written report that includes the child's information, on a form provided by the division, with
8076 the shelter facility.

8077 (c) A child removed or taken into protective custody under this section may not be
8078 placed or kept in detention pending court proceedings, unless the child may be held in
8079 detention under Chapter 6, Part 2, Custody and Detention.

8080 (6) (a) The juvenile court shall issue a warrant authorizing a peace officer or a child
8081 welfare worker to search for a child who is missing, has been abducted, or has run away, and
8082 take the child into physical custody if the juvenile court determines that the child is missing,
8083 has been abducted, or has run away from the protective custody, temporary custody, or custody
8084 of the division.

8085 (b) If the juvenile court issues a warrant under Subsection (6)(a):

8086 (i) the division shall notify the child's parent or guardian who has a right to parent-time
8087 with the child in accordance with Subsection 80-2a-203(5)(a);

8088 (ii) the court shall order:

8089 (A) the law enforcement agency that has jurisdiction over the location from which the
8090 child ran away to enter a record of the warrant into the National Crime Information Center
8091 database within 24 hours after the time in which the law enforcement agency receives a copy of
8092 the warrant; and

8093 (B) the division to notify the law enforcement agency described in Subsection
8094 (6)(b)(ii)(A) of the order described in Subsection (6)(b)(ii)(A); and

8095 (c) the court shall specify the location to which the peace officer or the child welfare
8096 caseworker shall transport the child.

8097 Section 138. Section **80-2a-301** is amended to read:

8098 **80-2a-301. Division's emergency placement of a child -- Background checks.**

8099 (1) The division may place a child in an emergency placement if:

8100 (a) the child welfare caseworker makes the determination that:

8101 (i) the child's home is unsafe;

8102 (ii) removal is necessary under Section [80-2a-202](#); and

8103 (iii) the child's custodial parent or guardian will agree to not remove the child from the
8104 home of the individual that serves as the placement and not have any contact with the child
8105 until after the time at which the shelter hearing is held under Section [80-3-301](#);

8106 (b) an individual, with preference being given in accordance with Subsection (4), can
8107 be identified who has the ability and is willing to provide care for the child who would
8108 otherwise be placed in shelter care, including:

8109 (i) taking the child to medical, mental health, dental, and educational appointments at
8110 the request of the division; and

8111 (ii) making the child available to division services and the guardian ad litem; and

8112 (c) the individual described in Subsection (1)(b) agrees to care for the child on an
8113 emergency basis under the following conditions:

8114 (i) the individual meets the criteria for an emergency placement under Subsection (2);

8115 (ii) the individual agrees to not allow the custodial parent or guardian to have any
8116 contact with the child until after the time at which the shelter hearing is held unless authorized
8117 by the division in writing;

8118 (iii) the individual agrees to contact law enforcement and the division if the custodial

8119 parent or guardian attempts to make unauthorized contact with the child;

8120 (iv) the individual agrees to allow the division and the child's guardian ad litem to have

8121 access to the child;

8122 (v) the individual is informed and understands that the division may continue to search

8123 for other possible placements for long-term care of the child, if needed;

8124 (vi) the individual is willing to assist the custodial parent or guardian in reunification

8125 efforts at the request of the division, and to follow all court orders; and

8126 (vii) the child is comfortable with the individual.

8127 (2) Except as provided in Subsection (4), before the day on which the division places a

8128 child in an emergency placement, the division:

8129 (a) may request the name of a reference and may contact the reference to determine

8130 whether:

8131 (i) the individual identified as a reference would place a child in the home of the

8132 emergency placement; and

8133 (ii) there are any other relatives or friends to consider as a possible emergency or

8134 long-term placement for the child;

8135 (b) in accordance with Subsection (4)(a), shall have the custodial parent or guardian

8136 sign an emergency placement agreement form during the investigation described in Subsection

8137 (2)(a);

8138 (c) (i) if the emergency placement will be with a relative, shall comply with the

8139 background check provisions described in Subsection (6); or

8140 (ii) if the emergency placement will be with an individual other than a noncustodial

8141 parent or relative, shall comply with the background check provisions described in Subsection

8142 (7) for adults living in the household where the child will be placed;

8143 (d) shall complete a limited home inspection of the home where the emergency

8144 placement is made; and

8145 (e) shall require the child welfare caseworker to have the emergency placement

8146 approved by a supervisor designated by the division.

8147 (3) (a) The division shall apply the following order of preference when determining the

8148 person with whom a child will be placed in an emergency placement, provided that the

8149 individual is able and willing to care for the child:

8150 (i) a noncustodial parent of the child in accordance with Section [80-3-302](#);

8151 (ii) a relative;

8152 (iii) subject to Subsection (3)(b), a friend designated by the custodial parent, guardian,
8153 or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a
8154 placement;

8155 (iv) a former foster placement designated by the division;

8156 (v) a foster placement, that is not a former foster placement, designated by the division;

8157 and

8158 (vi) a shelter facility designated by the division.

8159 (b) In determining whether a friend is a willing and appropriate temporary emergency
8160 placement for a child, the division:

8161 (i) subject to Subsections (3)(b)(ii) through (iv), shall consider the child's preferences
8162 or level of comfort with the friend;

8163 (ii) is required to consider no more than one friend designated by each parent or legal
8164 guardian of the child and one friend designated by the child, if the child is of sufficient maturity
8165 to articulate the child's wishes in relation to a placement;

8166 (iii) may limit the number of designated friends to two, one of whom shall be a friend
8167 designated by the child, if the child is of sufficient maturity to articulate the child's wishes in
8168 relation to a placement; and

8169 (iv) shall give preference to a friend designated by the child, if:

8170 (A) the child is of sufficient maturity to articulate the child's wishes; and

8171 (B) the division's basis for removing the child under Section [80-2a-202](#) is sexual abuse
8172 of the child.

8173 (4) (a) The division may, pending the outcome of the investigation described in
8174 Subsections (4)(b) and (c), place a child in emergency placement with the child's noncustodial
8175 parent if, based on a limited investigation before the day on which the division makes the
8176 emergency placement, the division:

8177 (i) determines that the noncustodial parent has regular, unsupervised visitation with the
8178 child that is not prohibited by law or court order;

8179 (ii) determines that there is not reason to believe that the child's health or safety will be
8180 endangered during the emergency placement; and

- 8181 (iii) has the custodial parent or guardian sign an emergency placement agreement.
- 8182 (b) Either before or after the day on which the division makes an emergency placement
8183 with the noncustodial parent of the child, the division may conduct the investigation described
8184 in Subsection (2)(a) in relation to the noncustodial parent.
- 8185 (c) Before, or within one day, excluding weekends and holidays, after the day on which
8186 the division places a child in an emergency placement with the noncustodial parent of the child,
8187 the division shall conduct a limited:
- 8188 (i) background check of the noncustodial parent, under Subsection (6); and
8189 (ii) inspection of the home where the emergency placement is made.
- 8190 (5) After an emergency placement, the child welfare caseworker must:
- 8191 (a) respond to the emergency placement's calls within one hour after the call is received
8192 if the custodial parent or guardian attempts to make unauthorized contact with the child or
8193 attempts to remove the child from the emergency placement;
- 8194 (b) complete all removal paperwork, including the notice provided to the child's
8195 custodial parent or guardian under Section [80-3-301](#);
- 8196 (c) if the child is not placed with a noncustodial parent, relative, or friend, file a report
8197 with the child welfare caseworker's supervisor that explains why a different placement is in the
8198 child's best interest;
- 8199 (d) contact the attorney general to schedule a shelter hearing;
- 8200 (e) complete the placement procedures required in Section [80-3-302](#); and
8201 (f) continue to search for other relatives as a possible long-term placement for the
8202 child, if needed.
- 8203 (6) (a) The background check described in Subsections (2)(c)(i) and (4)(c)(i) shall
8204 include completion of:
- 8205 (i) a name-based, Utah Bureau of Criminal Identification background check; and
8206 (ii) a search of the Management Information System.
- 8207 (b) The division shall determine whether an individual passes the background check
8208 described in Subsection (6)(a) in accordance with Section [[62A-2-120](#)] [26B-2-120](#).
- 8209 (c) Notwithstanding Subsection (6)(b), the division may not place a child with an
8210 individual who is prohibited by court order from having access to the child.
- 8211 (7) (a) The background check described in Subsection (2)(c)(ii) shall include

8212 completion of:

8213 (i) a name-based, Utah Bureau of Criminal Identification background check;

8214 (ii) a federal name-based criminal background check; and

8215 (iii) a search of the Management Information System.

8216 (b) The division shall determine whether an individual passes the background check
8217 described in Subsection (7)(a) in accordance with Section [~~62A-2-120~~] 26B-2-120.

8218 (c) If the division denies placement of a child as a result of a name-based criminal
8219 background check described in Subsection (7)(a), and the individual contests the denial, the
8220 individual shall submit a complete set of fingerprints with written permission to the Utah
8221 Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a
8222 fingerprint-based criminal background check.

8223 (d) (i) Within 15 calendar days after the day on which the name-based background
8224 checks are completed, the division shall require the individual to provide a complete set of
8225 fingerprints with written permission to the Utah Bureau of Criminal Identification for
8226 submission to the Federal Bureau of Investigation for a fingerprint-based criminal background
8227 check.

8228 (ii) If the individual fails to provide the fingerprints and written permission described
8229 in Subsection (7)(d)(i), the child shall immediately be removed from the child's home.

8230 Section 139. Section **80-3-110** is amended to read:

8231 **80-3-110. Consideration of cannabis during proceedings -- Drug testing.**

8232 (1) As used in this section:

8233 (a) "Cannabis" means the same as that term is defined in Section [~~26-61a-102~~]
8234 26B-4-201.

8235 (b) "Cannabis product" means the same as that term is defined in Section [~~26-61a-102~~]
8236 26B-4-201.

8237 (c) (i) "Chronic" means repeated or patterned.

8238 (ii) "Chronic" does not mean an isolated incident.

8239 (d) "Directions of use" means the same as that term is defined in Section [~~26-61a-102~~]
8240 26B-4-201.

8241 (e) "Dosing guidelines" means the same as that term is defined in Section [~~26-61a-102~~]
8242 26B-4-201.

8243 (f) "Medical cannabis" means the same as that term is defined in Section [~~26-61a-102~~]
8244 [26B-4-201](#).

8245 (g) "Medical cannabis cardholder" means the same as that term is defined in Section
8246 [~~26-61a-102~~] [26B-4-201](#).

8247 (h) " Recommending medical provider" means the same as that term is defined in
8248 Section [~~26-61a-102~~] [26B-4-201](#).

8249 (2) In a proceeding under this chapter, in which the juvenile court makes a finding,
8250 determination, or otherwise considers an individual's medical cannabis card, medical cannabis
8251 recommendation from a recommending medical provider, or possession or use of medical
8252 cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider
8253 or treat the individual's medical cannabis card, recommendation, possession, or use any
8254 differently than the lawful possession or use of any prescribed controlled substance if:

8255 (a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis
8256 Production Establishments;

8257 (b) the individual's possession or use complies with Subsection [58-37-3.7\(2\)](#) or (3); or

8258 (c) (i) the individual's possession or use complies with [~~Title 26, Chapter 61a, Utah~~
8259 ~~Medical Cannabis Act~~] [Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical](#)
8260 [Cannabis](#); and

8261 (ii) the individual reasonably complies with the directions of use and dosing guidelines
8262 determined by the individual's recommending medical provider or through a consultation
8263 described in Subsection [~~26-61a-502(4) or (5)~~] [26B-4-230\(4\) or \(5\)](#).

8264 (3) In a proceeding under this chapter, a child's parent's or guardian's use of cannabis or
8265 a cannabis product is not abuse or neglect of the child unless there is evidence showing that:

8266 (a) the child is harmed because of the child's inhalation or ingestion of cannabis, or
8267 because of cannabis being introduced to the child's body in another manner; or

8268 (b) the child is at an unreasonable risk of harm because of chronic inhalation or
8269 ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

8270 (4) Unless there is harm or an unreasonable risk of harm to the child as described in
8271 Subsection (3), in a child welfare proceeding under this chapter, a child's parent's or guardian's
8272 use of medical cannabis or a cannabis product is not contrary to the best interests of the child
8273 if:

8274 (a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's
8275 possession or use complies with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B,
8276 Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and there is no evidence that
8277 the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of
8278 use and dosing guidelines determined by the parent's or guardian's recommending medical
8279 provider or through a consultation described in Subsection [~~26-61a-502(4) or (5)~~]
8280 26B-4-230(4) or (5); or

8281 (b) before January 1, 2021, the parent's or guardian's possession or use complies with
8282 Subsection 58-37-3.7(2) or (3).

8283 (5) Subsection (3) does not prohibit a finding of abuse or neglect of a child, and
8284 Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis
8285 or a cannabis product is contrary to the best interests of a child, if there is evidence showing a
8286 nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior
8287 that would separately constitute abuse or neglect of the child.

8288 (6) If an individual, who is party to a proceeding under this chapter, is ordered by the
8289 juvenile court to submit to drug testing, or is referred by the division or a guardian ad litem for
8290 drug testing, the individual may not be ordered or referred for drug testing by means of a hair
8291 or fingernail test that is administered to detect the presence of drugs.

8292 Section 140. Section **80-3-204** is amended to read:

8293 **80-3-204. Protective custody of a child after a petition is filed -- Grounds.**

8294 (1) When an abuse, neglect, or dependency petition is filed, the juvenile court shall
8295 apply, in addressing the petition, the least restrictive means and alternatives available to
8296 accomplish a compelling state interest and to prevent irretrievable destruction of family life as
8297 described in Subsections 80-2a-201(1) and (7)(a) and Section 80-4-104.

8298 (2) After an abuse, neglect, or dependency petition is filed, if the child who is the
8299 subject of the petition is not in protective custody, a juvenile court may order that the child be
8300 removed from the child's home or otherwise taken into protective custody if the juvenile court
8301 finds, by a preponderance of the evidence, that any one or more of the following circumstances
8302 exist:

8303 (a) (i) there is an imminent danger to the physical health or safety of the child; and

8304 (ii) the child's physical health or safety may not be protected without removing the

- 8305 child from the custody of the child's parent or guardian;
- 8306 (b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct
8307 that causes the child to suffer harm; and
- 8308 (ii) there are no less restrictive means available by which the child's emotional health
8309 may be protected without removing the child from the custody of the child's parent or guardian;
- 8310 (c) the child or another child residing in the same household has been, or is considered
8311 to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a
8312 parent or guardian, a member of the parent's or guardian's household, or other individual
8313 known to the parent or guardian;
- 8314 (d) the parent or guardian is unwilling to have physical custody of the child;
- 8315 (e) the child is abandoned or left without any provision for the child's support;
- 8316 (f) a parent or guardian who has been incarcerated or institutionalized has not arranged
8317 or cannot arrange for safe and appropriate care for the child;
- 8318 (g) (i) a relative or other adult custodian with whom the child is left by the parent or
8319 guardian is unwilling or unable to provide care or support for the child;
- 8320 (ii) the whereabouts of the parent or guardian are unknown; and
- 8321 (iii) reasonable efforts to locate the parent or guardian are unsuccessful;
- 8322 (h) subject to Subsection 80-1-102(58)(b) and Sections 80-3-109 and 80-3-304, the
8323 child is in immediate need of medical care;
- 8324 (i) (i) a parent's or guardian's actions, omissions, or habitual action create an
8325 environment that poses a serious risk to the child's health or safety for which immediate
8326 remedial or preventive action is necessary; or
- 8327 (ii) a parent's or guardian's action in leaving a child unattended would reasonably pose
8328 a threat to the child's health or safety;
- 8329 (j) the child or another child residing in the same household has been neglected;
- 8330 (k) the child's natural parent:
- 8331 (i) intentionally, knowingly, or recklessly causes the death of another parent of the
8332 child;
- 8333 (ii) is identified by a law enforcement agency as the primary suspect in an investigation
8334 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
- 8335 (iii) is being prosecuted for or has been convicted of intentionally, knowingly, or

8336 recklessly causing the death of another parent of the child;

8337 (l) an infant is an abandoned infant, as defined in Section 80-4-203;

8338 (m) (i) the parent or guardian, or an adult residing in the same household as the parent

8339 or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab

8340 Act; and

8341 (ii) any clandestine laboratory operation was located in the residence or on the property

8342 where the child resided; or

8343 (n) the child's welfare is otherwise endangered.

8344 (3) (a) For purposes of Subsection (2)(a), if a child has previously been adjudicated as

8345 abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency

8346 occurs involving the same substantiated abuser or under similar circumstance as the previous

8347 abuse, that fact is prima facie evidence that the child cannot safely remain in the custody of the

8348 child's parent.

8349 (b) For purposes of Subsection (2)(c):

8350 (i) another child residing in the same household may not be removed from the home

8351 unless that child is considered to be at substantial risk of being physically abused, sexually

8352 abused, or sexually exploited as described in Subsection (2)(c) or Subsection (3)(b)(ii); and

8353 (ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse,

8354 or sexual exploitation by an individual known to the parent has occurred, and there is evidence

8355 that the parent or guardian failed to protect the child, after having received the notice, by

8356 allowing the child to be in the physical presence of the alleged abuser, that fact is prima facie

8357 evidence that the child is at substantial risk of being physically abused, sexually abused, or

8358 sexually exploited.

8359 (4) (a) For purposes of Subsection (2), if the division files an abuse, neglect, or

8360 dependency petition, the juvenile court shall consider the division's safety and risk assessments

8361 described in Section 80-2-403 to determine whether a child should be removed from the

8362 custody of the child's parent or guardian or should otherwise be taken into protective custody.

8363 (b) The division shall make a diligent effort to provide the safety and risk assessments

8364 described in Section 80-2-403 to the juvenile court, guardian ad litem, and counsel for the

8365 parent or guardian, as soon as practicable before the shelter hearing described in Section

8366 80-3-301.

8367 (5) In the absence of one of the factors described in Subsection (2), a juvenile court
8368 may not remove a child from the parent's or guardian's custody on the basis of:

8369 (a) educational neglect, truancy, or failure to comply with a court order to attend
8370 school;

8371 (b) mental illness or poverty of the parent or guardian;

8372 (c) disability of the parent or guardian, as defined in Section [57-21-2](#); or

8373 (d) the possession or use, in accordance with [~~Title 26, Chapter 61a, Utah Medical~~
8374 ~~Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, of
8375 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a
8376 medical cannabis device, as those terms are defined in Section [~~26-61a-102~~] [26B-4-201](#).

8377 (6) A child removed from the custody of the child's parent or guardian under this
8378 section may not be placed or kept in detention, unless the child may be admitted to detention
8379 under Chapter 6, Part 2, Custody and Detention.

8380 (7) This section does not preclude removal of a child from the child's home without a
8381 warrant or court order under Section [80-2a-202](#).

8382 (8) (a) Except as provided in Subsection (8)(b), a juvenile court and the division may
8383 not remove a child from the custody of the child's parent or guardian on the sole or primary
8384 basis that the parent or guardian refuses to consent to:

8385 (i) the administration of a psychotropic medication to a child;

8386 (ii) a psychiatric, psychological, or behavioral treatment for a child; or

8387 (iii) a psychiatric or behavioral health evaluation of a child.

8388 (b) Notwithstanding Subsection (8)(a), a juvenile court or the division may remove a
8389 child under conditions that would otherwise be prohibited under Subsection (8)(a) if failure to
8390 take an action described under Subsection (8)(a) would present a serious, imminent risk to the
8391 child's physical safety or the physical safety of others.

8392 Section 141. Section **80-3-302** is amended to read:

8393 **80-3-302. Shelter hearing -- Placement of a child.**

8394 (1) As used in this section:

8395 (a) "Natural parent," notwithstanding Section [80-1-102](#), means:

8396 (i) a biological or adoptive mother of the child;

8397 (ii) an adoptive father of the child; or

8398 (iii) a biological father of the child who:
8399 (A) was married to the child's biological mother at the time the child was conceived or
8400 born; or
8401 (B) has strictly complied with Sections 78B-6-120 through 78B-6-122, before removal
8402 of the child or voluntary surrender of the child by the custodial parent.
8403 (b) "Natural parent" includes the individuals described in Subsection (1)(a) regardless
8404 of whether the child has been or will be placed with adoptive parents or whether adoption has
8405 been or will be considered as a long-term goal for the child.
8406 (2) (a) At the shelter hearing, if the juvenile court orders that a child be removed from
8407 the custody of the child's parent in accordance with Section 80-3-301, the juvenile court shall
8408 first determine whether there is another natural parent with whom the child was not residing at
8409 the time the events or conditions that brought the child within the juvenile court's jurisdiction
8410 occurred, who desires to assume custody of the child.
8411 (b) Subject to Subsection (7), if another natural parent requests custody under
8412 Subsection (2)(a), the juvenile court shall place the child with that parent unless the juvenile
8413 court finds that the placement would be unsafe or otherwise detrimental to the child.
8414 (c) The juvenile court:
8415 (i) shall make a specific finding regarding the fitness of the parent described in
8416 Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement;
8417 (ii) shall, at a minimum, order the division to visit the parent's home, comply with the
8418 criminal background check provisions described in Section 80-3-305, and check the
8419 Management Information System for any previous reports of abuse or neglect received by the
8420 division regarding the parent at issue;
8421 (iii) may order the division to conduct any further investigation regarding the safety
8422 and appropriateness of the placement; and
8423 (iv) may place the child in the temporary custody of the division, pending the juvenile
8424 court's determination regarding the placement.
8425 (d) The division shall report the division's findings from an investigation under
8426 Subsection (2)(c), regarding the child in writing to the juvenile court.
8427 (3) If the juvenile court orders placement with a parent under Subsection (2):
8428 (a) the child and the parent are under the continuing jurisdiction of the juvenile court;

- 8429 (b) the juvenile court may order:
- 8430 (i) that the parent take custody subject to the supervision of the juvenile court; and
- 8431 (ii) that services be provided to the parent from whose custody the child was removed,
- 8432 the parent who has assumed custody, or both; and
- 8433 (c) the juvenile court shall order reasonable parent-time with the parent from whose
- 8434 custody the child was removed, unless parent-time is not in the best interest of the child.
- 8435 (4) The juvenile court shall periodically review an order described in Subsection (3) to
- 8436 determine whether:
- 8437 (a) placement with the parent continues to be in the child's best interest;
- 8438 (b) the child should be returned to the original custodial parent;
- 8439 (c) the child should be placed with a relative under Subsections (6) through (9); or
- 8440 (d) the child should be placed in the temporary custody of the division.
- 8441 (5) (a) Legal custody of the child is not affected by an order entered under Subsection
- 8442 (2) or (3).
- 8443 (b) To affect a previous court order regarding legal custody, the party shall petition the
- 8444 court for modification of legal custody.
- 8445 (6) Subject to Subsection (7), if, at the time of the shelter hearing, a child is removed
- 8446 from the custody of the child's parent and is not placed in the custody of the child's other
- 8447 parent, the juvenile court:
- 8448 (a) shall, at that time, determine whether there is a relative or a friend who is able and
- 8449 willing to care for the child, which may include asking a child, who is of sufficient maturity to
- 8450 articulate the child's wishes in relation to a placement, if there is a relative or friend with whom
- 8451 the child would prefer to reside;
- 8452 (b) may order the division to conduct a reasonable search to determine whether there
- 8453 are relatives or friends who are willing and appropriate, in accordance with the requirements of
- 8454 this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective
- 8455 Custody of a Child, for placement of the child;
- 8456 (c) shall order the parents to cooperate with the division, within five working days, to
- 8457 provide information regarding relatives or friends who may be able and willing to care for the
- 8458 child; and
- 8459 (d) may order that the child be placed in the temporary custody of the division pending

8460 the determination under Subsection (6)(a).

8461 (7) (a) (i) Subject to Subsections (7)(b) through (d) and if the provisions of this section
8462 are satisfied, the division and the juvenile court shall give preferential consideration to a
8463 relative's or a friend's request for placement of the child, if the placement is in the best interest
8464 of the child.

8465 (ii) For purposes of the preferential consideration under Subsection (7)(a)(i), there is a
8466 rebuttable presumption that placement of the child with a relative is in the best interest of the
8467 child.

8468 (b) (i) The preferential consideration that the juvenile court or division initially grants a
8469 relative or friend under Subsection (7)(a)(i) expires 120 days after the day on which the shelter
8470 hearing occurs.

8471 (ii) After the day on which the time period described in Subsection (7)(b)(i) expires,
8472 the division or the juvenile court may not grant preferential consideration to a relative or friend,
8473 who has not obtained custody or asserted an interest in the child.

8474 (c) (i) The preferential consideration that the juvenile court initially grants a natural
8475 parent under Subsection (2) is limited after 120 days after the day on which the shelter hearing
8476 occurs.

8477 (ii) After the time period described in Subsection (7)(c)(i), the juvenile court shall base
8478 the juvenile court's custody decision on the best interest of the child.

8479 (d) Before the day on which the time period described in Subsection (7)(c)(i) expires,
8480 the following order of preference shall be applied when determining the individual with whom
8481 a child will be placed, provided that the individual is willing and able to care for the child:

8482 (i) a noncustodial parent of the child;

8483 (ii) a relative of the child;

8484 (iii) subject to Subsection (7)(e), a friend if the friend is a licensed foster parent; and

8485 (iv) other placements that are consistent with the requirements of law.

8486 (e) In determining whether a friend is a willing, able, and appropriate placement for a
8487 child, the juvenile court or the division:

8488 (i) subject to Subsections (7)(e)(ii) through (iv), shall consider the child's preferences
8489 or level of comfort with the friend;

8490 (ii) is required to consider no more than one friend designated by each parent of the

8491 child and one friend designated by the child if the child is of sufficient maturity to articulate the
8492 child's wishes in relation to a placement;

8493 (iii) may limit the number of designated friends to two, one of whom shall be a friend
8494 designated by the child if the child is of sufficient maturity to articulate the child's wishes in
8495 relation to a placement; and

8496 (iv) shall give preference to a friend designated by the child if:

8497 (A) the child is of sufficient maturity to articulate the child's wishes; and

8498 (B) the basis for removing the child under Section 80-3-301 is sexual abuse of the
8499 child.

8500 (f) (i) If a parent of the child or the child, if the child is of sufficient maturity to
8501 articulate the child's wishes in relation to a placement, is not able to designate a friend who is a
8502 licensed foster parent for placement of the child, but is able to identify a friend who is willing
8503 to become licensed as a foster parent, the department shall fully cooperate to expedite the
8504 licensing process for the friend.

8505 (ii) If the friend described in Subsection (7)(f)(i) becomes licensed as a foster parent
8506 within the time frame described in Subsection (7)(b), the juvenile court shall determine
8507 whether it is in the best interest of the child to place the child with the friend.

8508 (8) (a) If a relative or friend who is willing to cooperate with the child's permanency
8509 goal is identified under Subsection (6)(a), the juvenile court:

8510 (i) shall make a specific finding regarding:

8511 (A) the fitness of that relative or friend as a placement for the child; and

8512 (B) the safety and appropriateness of placement with the relative or friend; and

8513 (ii) may not consider a request for guardianship or adoption of the child by an
8514 individual who is not a relative of the child, or prevent the division from placing the child in
8515 the custody of a relative of the child in accordance with this part, until after the day on which
8516 the juvenile court makes the findings under Subsection (8)(a)(i).

8517 (b) In making the finding described in Subsection (8)(a), the juvenile court shall, at a
8518 minimum, order the division to:

8519 (i) if the child may be placed with a relative, conduct a background check that includes:

8520 (A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification

8521 background check of the relative;

8522 (B) a completed search, relating to the relative, of the Management Information
8523 System; and

8524 (C) a background check that complies with the criminal background check provisions
8525 described in Section 80-3-305, of each nonrelative of the child who resides in the household
8526 where the child may be placed;

8527 (ii) if the child will be placed with a noncustodial parent, complete a background check
8528 that includes:

8529 (A) the background check requirements applicable to an emergency placement with a
8530 noncustodial parent that are described in Subsections 80-2a-301(4) and (6);

8531 (B) a completed search, relating to the noncustodial parent of the child, of the
8532 Management Information System; and

8533 (C) a background check that complies with the criminal background check provisions
8534 described in Section 80-3-305, of each nonrelative of the child who resides in the household
8535 where the child may be placed;

8536 (iii) if the child may be placed with an individual other than a noncustodial parent or a
8537 relative, conduct a criminal background check of the individual, and each adult that resides in
8538 the household where the child may be placed, that complies with the criminal background
8539 check provisions described in Section 80-3-305;

8540 (iv) visit the relative's or friend's home;

8541 (v) check the Management Information System for any previous reports of abuse or
8542 neglect regarding the relative or friend at issue;

8543 (vi) report the division's findings in writing to the juvenile court; and

8544 (vii) provide sufficient information so that the juvenile court may determine whether:

8545 (A) the relative or friend has any history of abusive or neglectful behavior toward other
8546 children that may indicate or present a danger to this child;

8547 (B) the child is comfortable with the relative or friend;

8548 (C) the relative or friend recognizes the parent's history of abuse and is committed to
8549 protect the child;

8550 (D) the relative or friend is strong enough to resist inappropriate requests by the parent
8551 for access to the child, in accordance with court orders;

8552 (E) the relative or friend is committed to caring for the child as long as necessary; and

8553 (F) the relative or friend can provide a secure and stable environment for the child.

8554 (c) The division may determine to conduct, or the juvenile court may order the division
8555 to conduct, any further investigation regarding the safety and appropriateness of the placement
8556 described in Subsection (8)(a).

8557 (d) The division shall complete and file the division's assessment regarding placement
8558 with a relative or friend under Subsections (8)(a) and (b) as soon as practicable, in an effort to
8559 facilitate placement of the child with a relative or friend.

8560 (9) (a) The juvenile court may place a child described in Subsection (2)(a) in the
8561 temporary custody of the division, pending the division's investigation under Subsection (8),
8562 and the juvenile court's determination regarding the appropriateness of the placement.

8563 (b) The juvenile court shall ultimately base the juvenile court's determination regarding
8564 the appropriateness of a placement with a relative or friend on the best interest of the child.

8565 (10) If a juvenile court places a child described in Subsection (6) with the child's
8566 relative or friend:

8567 (a) the juvenile court shall:

8568 (i) order the relative or friend take custody, subject to the continuing supervision of the
8569 juvenile court;

8570 (ii) provide for reasonable parent-time with the parent or parents from whose custody
8571 the child is removed, unless parent-time is not in the best interest of the child; and

8572 (iii) conduct a periodic review no less often than every six months, to determine
8573 whether:

8574 (A) placement with a relative or friend continues to be in the child's best interest;

8575 (B) the child should be returned home; or

8576 (C) the child should be placed in the custody of the division;

8577 (b) the juvenile court may enter an order:

8578 (i) requiring the division to provide necessary services to the child and the child's
8579 relative or friend, including the monitoring of the child's safety and well-being; or

8580 (ii) that the juvenile court considers necessary for the protection and best interest of the
8581 child; and

8582 (c) the child and the relative or friend in whose custody the child is placed are under
8583 the continuing jurisdiction of the juvenile court;

8584 (11) No later than 12 months after the day on which the child is removed from the
8585 home, the juvenile court shall schedule a hearing for the purpose of entering a permanent order
8586 in accordance with the best interest of the child.

8587 (12) The time limitations described in Section [80-3-406](#), with regard to reunification
8588 efforts, apply to a child placed with a previously noncustodial parent under Subsection (2) or
8589 with a relative or friend under Subsection (6).

8590 (13) (a) If the juvenile court awards temporary custody of a child to the division, and
8591 the division places the child with a relative, the division shall:

8592 (i) conduct a criminal background check of the relative that complies with the criminal
8593 background check provisions described in Section [80-3-305](#); and

8594 (ii) if the results of the criminal background check described in Subsection (13)(a)(i)
8595 would prohibit the relative from having direct access to the child under Section [~~62A-2-120~~]
8596 [26B-2-120](#), the division shall:

8597 (A) take the child into physical custody; and

8598 (B) within three days, excluding weekends and holidays, after the day on which the
8599 child is taken into physical custody under Subsection (13)(a)(ii)(A), give written notice to the
8600 juvenile court, and all parties to the proceedings, of the division's action.

8601 (b) Subsection (13)(a) does not prohibit the division from placing a child with a
8602 relative, pending the results of the background check described in Subsection (13)(a) on the
8603 relative.

8604 (14) If the juvenile court orders that a child be removed from the custody of the child's
8605 parent and does not award custody and guardianship to another parent, relative, or friend under
8606 this section, the juvenile court shall order that the child be placed in the temporary custody of
8607 the division, to proceed to adjudication and disposition and to be provided with care and
8608 services in accordance with this chapter, Chapter 2, Child Welfare Services, and Chapter 2a,
8609 Removal and Protective Custody of a Child.

8610 (15) (a) If a child reenters the temporary custody or the custody of the division and is
8611 placed in foster care, the division shall:

8612 (i) notify the child's former foster parents; and

8613 (ii) upon a determination of the former foster parents' willingness and ability to safely
8614 and appropriately care for the child, give the former foster parents preference for placement of

8615 the child.

8616 (b) If, after the shelter hearing, the child is placed with an individual who is not a
8617 parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a
8618 foster placement with a married couple, unless it is in the best interests of the child to place the
8619 child with a single foster parent.

8620 (16) In determining the placement of a child, the juvenile court and the division may
8621 not take into account, or discriminate against, the religion of an individual with whom the child
8622 may be placed, unless the purpose of taking religion into account is to place the child with an
8623 individual or family of the same religion as the child.

8624 (17) If the juvenile court's decision differs from a child's express wishes if the child is
8625 of sufficient maturity to articulate the wishes in relation to the child's placement, the juvenile
8626 court shall make findings explaining why the juvenile court's decision differs from the child's
8627 wishes.

8628 (18) This section does not guarantee that an identified relative or friend will receive
8629 custody of the child.

8630 Section 142. Section **80-3-305** is amended to read:

8631 **80-3-305. Criminal background checks necessary before out-of-home placement**
8632 **of a child.**

8633 (1) Subject to Subsection (3), upon ordering removal of a child from the custody of the
8634 child's parent and placing that child in the temporary custody or custody of the division before
8635 the division places a child in out-of-home care, the juvenile court shall require the completion
8636 of a nonfingerprint-based background check by the Utah Bureau of Criminal Identification
8637 regarding the proposed placement.

8638 (2) (a) Except as provided in Subsection (4), the division or the Office of Guardian Ad
8639 Litem may request, or the juvenile court upon the juvenile court's own motion, may order, the
8640 Department of Public Safety to conduct a complete Federal Bureau of Investigation criminal
8641 background check through the national criminal history system (NCIC).

8642 (b) (i) Except as provided in Subsection (4), upon request by the division or the Office
8643 of Guardian ad Litem, or upon the juvenile court's order, an individual subject to the
8644 requirements of Subsection (1) shall submit fingerprints and shall be subject to an FBI
8645 fingerprint background check.

8646 (ii) The child may be temporarily placed, pending the outcome of the background
8647 check described in Subsection (2)(b)(i).

8648 (c) (i) Except as provided in Subsection (2)(c)(ii), the cost of the investigations
8649 described in Subsection (2)(a) shall be borne by whoever is to receive placement of the child.

8650 (ii) The division may pay all or part of the cost of the investigations described in
8651 Subsection (2)(a).

8652 (3) Except as provided in Subsection (5), a child who is in the protective custody,
8653 temporary custody, or custody of the division may not be placed with a prospective foster
8654 parent or a prospective adoptive parent, unless, before the child is placed with the prospective
8655 foster parent or the prospective adoptive parent:

8656 (a) a fingerprint based FBI national criminal history records check is conducted on the
8657 prospective foster parent or prospective adoptive parent and any other adult residing in the
8658 household;

8659 (b) the department conducts a check of the abuse and neglect registry in each state
8660 where the prospective foster parent or prospective adoptive parent resided in the five years
8661 immediately before the day on which the prospective foster parent or prospective adoptive
8662 parent applied to be a foster parent or adoptive parent, to determine whether the prospective
8663 foster parent or prospective adoptive parent is listed in the registry as having a substantiated or
8664 supported finding of a severe type of abuse or neglect;

8665 (c) the department conducts a check of the abuse and neglect registry of each state
8666 where each adult living in the home of the prospective foster parent or prospective adoptive
8667 parent described in Subsection (3)(b) resided in the five years immediately before the day on
8668 which the prospective foster parent or prospective adoptive parent applied to be a foster parent
8669 or adoptive parent, to determine whether the adult is listed in the registry as having a
8670 substantiated or supported finding of a severe type of abuse or neglect; and

8671 (d) each individual required to undergo a background check described in this
8672 Subsection (3) passes the background check, in accordance with the provisions of Section
8673 ~~[62A-2-120]~~ [26B-2-120](#).

8674 (4) Subsections (2)(a) and (b) do not apply to a child who is placed with a noncustodial
8675 parent or relative under Section [80-2a-301](#), [80-3-302](#), or [80-3-303](#), unless the juvenile court
8676 finds that compliance with Subsection (2)(a) or (b) is necessary to ensure the safety of the

8677 child.

8678 (5) The requirements under Subsection (3) do not apply to the extent that:

8679 (a) federal law or rule permits otherwise; or

8680 (b) the requirements would prohibit the division or a juvenile court from placing a

8681 child with:

8682 (i) a noncustodial parent, under Section [80-2a-301](#), [80-3-302](#), or [80-3-303](#); or

8683 (ii) a relative, under Section [80-2a-301](#), [80-3-302](#), or [80-3-303](#), pending completion of
8684 the background check described in Subsection (3).

8685 Section 143. Section **80-3-404** is amended to read:

8686 **80-3-404. Finding of severe child abuse or neglect -- Order delivered to division --**

8687 **Court records.**

8688 (1) If an abuse, neglect, or dependency petition is filed with the juvenile court that
8689 informs the juvenile court that the division has made a supported finding that an individual
8690 committed a severe type of child abuse or neglect, the juvenile court shall:

8691 (a) make a finding of substantiated, unsubstantiated, or without merit;

8692 (b) include the finding described in Subsection (1)(a) in a written order; and

8693 (c) deliver a certified copy of the order described in Subsection (1)(b) to the division.

8694 (2) The juvenile court shall make the finding described in Subsection (1):

8695 (a) as part of the adjudication hearing;

8696 (b) at the conclusion of the adjudication hearing; or

8697 (c) as part of a court order entered under a written stipulation of the parties.

8698 (3) In accordance with Section [80-2-707](#), a proceeding for adjudication of a supported
8699 finding of a type of abuse or neglect that does not constitute a severe type of child abuse or
8700 neglect may be joined in the juvenile court with an adjudication of a severe type of child abuse
8701 or neglect.

8702 (4) (a) The juvenile court shall make records of the juvenile court's findings under
8703 Subsection (1) available only to an individual with statutory authority to access the Licensing
8704 Information System for the purposes of licensing under Sections [~~[26-39-402](#), [26B-1-211](#), and~~
8705 ~~[62A-2-120](#)~~ [26B-1-211](#), [26B-2-120](#), and [26B-2-404](#), or for the purposes described in Sections
8706 [~~[26-8a-310](#), [62A-2-121](#)~~, or Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access]
8707 [26B-2-121](#), [26B-2-238](#) through [26B-2-241](#), or [26B-4-124](#).

8708 (b) An appellate court shall make records of an appeal from the juvenile court's
8709 decision under Subsection (1) available only to an individual with statutory authority to access
8710 the Licensing Information System for the purposes described in Subsection (4)(a).

8711 Section 144. Section **80-3-405** is amended to read:

8712 **80-3-405. Dispositions after adjudication.**

8713 (1) (a) Upon adjudication under Subsection **80-3-402**(1), the juvenile court may make
8714 the dispositions described in Subsection (2) at the dispositional hearing.

8715 (2) (a) (i) The juvenile court may vest custody of an abused, neglected, or dependent
8716 minor in the division or any other appropriate person, with or without court-specified child
8717 welfare services, in accordance with the requirements and procedures of this chapter.

8718 (ii) When placing a minor in the custody of the division or any other appropriate
8719 person, the juvenile court:

8720 (A) shall give primary consideration to the welfare of the minor;

8721 (B) shall give due consideration to the rights of the parent or parents concerning the
8722 minor; and

8723 (C) when practicable, may take into consideration the religious preferences of the
8724 minor and of the minor's parents or guardian.

8725 (b) (i) The juvenile court may appoint a guardian for the minor if it appears necessary
8726 in the interest of the minor.

8727 (ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private
8728 institution or agency, but not a nonsecure residential placement provider, in which legal
8729 custody of the minor is vested.

8730 (iii) When placing a minor under the guardianship of an individual or of a private
8731 agency or institution, the juvenile court:

8732 (A) shall give primary consideration to the welfare of the minor; and

8733 (B) when practicable, may take into consideration the religious preferences of the
8734 minor and of the minor's parents or guardian.

8735 (c) The juvenile court may order:

8736 (i) protective supervision;

8737 (ii) family preservation;

8738 (iii) sibling visitation; or

8739 (iv) other services.

8740 (d) (i) If a minor has been placed with an individual or relative as a result of an
8741 adjudication under this chapter, the juvenile court may enter an order of permanent legal
8742 custody and guardianship with the individual or relative of the minor.

8743 (ii) If a juvenile court enters an order of permanent custody and guardianship with an
8744 individual or relative of a minor under Subsection (2)(d)(i), the juvenile court may, in
8745 accordance with Section [78A-6-356](#), enter an order for child support on behalf of the minor
8746 against the natural parents of the minor.

8747 (iii) An order under this Subsection (2)(d):

8748 (A) shall remain in effect until the minor is 18 years old;

8749 (B) is not subject to review under Section [78A-6-358](#); and

8750 (C) may be modified by petition or motion as provided in Section [78A-6-357](#).

8751 (e) The juvenile court may order a child be committed to the physical custody, as
8752 defined in Section [~~62A-15-701~~] [26B-5-401](#), of a local mental health authority, in accordance
8753 with the procedures and requirements of [~~Title 62A, Chapter 15, Part 7, Commitment of~~
8754 ~~Persons Under Age 18 to Division of Substance Abuse and Mental Health~~] Title 26B, Chapter
8755 5, Part 4, Commitment of Persons Under Age 18.

8756 (f) (i) If the child has an intellectual disability, the juvenile court may make an order
8757 committing a minor to the Utah State Developmental Center in accordance with [~~Title 62A,~~
8758 ~~Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual~~
8759 ~~Disability~~] Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People
8760 with an Intellectual Disability.

8761 (ii) The juvenile court shall follow the procedure applicable in the district court with
8762 respect to judicial commitments to the Utah State Developmental Center when ordering a
8763 commitment under Subsection (2)(f)(i).

8764 (g) (i) Subject to Subsection [80-1-102\(58\)\(b\)](#) and Section [80-3-304](#), the juvenile court
8765 may order that a minor:

8766 (A) be examined or treated by a mental health therapist, as described in Section
8767 [80-3-109](#); or

8768 (B) receive other special care.

8769 (ii) For purposes of receiving the examination, treatment, or care described in

8770 Subsection (2)(g)(i), the juvenile court may place the minor in a hospital or other suitable
8771 facility that is not secure care or secure detention.

8772 (iii) In determining whether to order the examination, treatment, or care described in
8773 Subsection (2)(g)(i), the juvenile court shall consider:

8774 (A) the desires of the minor;

8775 (B) the desires of the parent or guardian of the minor if the minor is younger than 18
8776 years old; and

8777 (C) whether the potential benefits of the examination, treatment, or care outweigh the
8778 potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain
8779 function impairment, or emotional or physical harm resulting from the compulsory nature of
8780 the examination, treatment, or care.

8781 (h) The juvenile court may make other reasonable orders for the best interest of the
8782 minor.

8783 (3) Upon an adjudication under this chapter, the juvenile court may not:

8784 (a) commit a minor solely on the ground of abuse, neglect, or dependency to the
8785 Division of Juvenile Justice Services;

8786 (b) assume the function of developing foster home services; or

8787 (c) vest legal custody of an abused, neglected, or dependent minor in the division to
8788 primarily address the minor's ungovernable or other behavior, mental health, or disability,
8789 unless the division:

8790 (i) engages other relevant divisions within the department that are conducting an
8791 assessment of the minor and the minor's family's needs;

8792 (ii) based on the assessment described in Subsection (3)(c)(i), determines that vesting
8793 custody of the minor in the division is the least restrictive intervention for the minor that meets
8794 the minor's needs; and

8795 (iii) consents to legal custody of the minor being vested in the division.

8796 (4) The juvenile court may combine the dispositions listed in Subsection (2) if
8797 combining the dispositions is permissible and the dispositions are compatible.

8798 Section 145. Section **80-3-504** is amended to read:

8799 **80-3-504. Petition for substantiation -- Court findings -- Expedited hearing --**
8800 **Records of an appeal.**

8801 (1) The division or an individual may file a petition for substantiation in accordance
8802 with Section [80-2-1004](#).

8803 (2) If the division decides to file a petition for substantiation under Section [80-2-1004](#),
8804 the division shall file the petition no more than 14 days after the day on which the division
8805 makes the decision.

8806 (3) At the conclusion of the hearing on a petition for substantiation, the juvenile court
8807 shall:

8808 (a) make a finding of substantiated, unsubstantiated, or without merit;

8809 (b) include the finding in a written order; and

8810 (c) deliver a certified copy of the order to the division.

8811 (4) If an individual whose name is listed on the Licensing Information System before
8812 May 6, 2002, files a petition for substantiation under Section [80-2-1004](#) during the time that an
8813 alleged perpetrator's application for clearance to work with children or vulnerable adults is
8814 pending, the juvenile court shall:

8815 (a) hear the matter on an expedited basis; and

8816 (b) enter a final decision no later than 60 days after the day on which the petition for
8817 substantiation is filed.

8818 (5) An appellate court shall make a record of an appeal from the juvenile court's
8819 decision under Subsection (3) available only to an individual with statutory authority to access
8820 the Licensing Information System for the purposes of licensing under Sections [~~[26-39-402](#)~~;
8821 ~~[62A-1-118](#)~~, and ~~[62A-2-120](#)~~], [26B-1-211](#), [26B-2-120](#), and [26B-2-404](#), or for the purposes
8822 described in Sections [~~[26-8a-310](#)~~, ~~[62A-2-121](#)~~, or Title 26, Chapter 21, Part 2, Clearance for
8823 ~~Direct Patient Access~~] [26B-2-121](#), [26B-2-238](#) through [26B-2-241](#), or [26B-4-124](#).

8824 Section 146. Section **80-4-109** is amended to read:

8825 **80-4-109. Consideration of cannabis during proceedings.**

8826 (1) As used in this section:

8827 (a) "Cannabis" means the same as that term is defined in Section [~~[26-61a-102](#)~~]
8828 [26B-4-201](#).

8829 (b) "Cannabis product" means the same as that term is defined in Section [~~[26-61a-102](#)~~]
8830 [26B-4-201](#).

8831 (c) (i) "Chronic" means repeated or patterned.

- 8832 (ii) "Chronic" does not mean an isolated incident.
- 8833 (d) "Directions of use" means the same as that term is defined in Section ~~[26-61a-102]~~
- 8834 26B-4-201.
- 8835 (e) "Dosing guidelines" means the same as that term is defined in Section ~~[26-61a-102]~~
- 8836 26B-4-201.
- 8837 (f) "Medical cannabis" means the same as that term is defined in Section ~~[26-61a-102]~~
- 8838 26B-4-201.
- 8839 (g) "Medical cannabis cardholder" means the same as that term is defined in Section
- 8840 ~~[26-61a-102]~~ 26B-4-201.
- 8841 (h) "Qualified medical provider" means the same as that term is defined in Section
- 8842 ~~[26-61a-102]~~ 26B-4-201.
- 8843 (2) In a proceeding under this chapter in which the juvenile court makes a finding,
- 8844 determination, or otherwise considers an individual's possession or use of medical cannabis, a
- 8845 cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the
- 8846 individual's possession or use any differently than the lawful possession or use of any
- 8847 prescribed controlled substance if:
- 8848 (a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis
- 8849 Production Establishments;
- 8850 (b) the individual's possession or use complies with Subsection ~~58-37-3.7~~(2) or (3); or
- 8851 (c) (i) the individual's possession or use complies with ~~[Title 26, Chapter 61a, Utah~~
- 8852 ~~Medical Cannabis Act]~~ Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical
- 8853 Cannabis; and
- 8854 (ii) the individual reasonably complies with the directions of use and dosing guidelines
- 8855 determined by the individual's qualified medical provider or through a consultation described
- 8856 in Subsection ~~[26-61a-502(4) or (5)]~~ 26B-4-230(4) or (5).
- 8857 (3) In a proceeding under this chapter, a parent's or guardian's use of cannabis or a
- 8858 cannabis product is not abuse or neglect of a child unless there is evidence showing that:
- 8859 (a) the child is harmed because of the child's inhalation or ingestion of cannabis, or
- 8860 because of cannabis being introduced to the child's body in another manner; or
- 8861 (b) the child is at an unreasonable risk of harm because of chronic inhalation or
- 8862 ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

8863 (4) Unless there is harm or an unreasonable risk of harm to the child as described in
8864 Subsection (3), a parent's or guardian's use of medical cannabis or a cannabis product is not
8865 contrary to the best interests of a child if:

8866 (a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's
8867 possession or use complies with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B,
8868 Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and there is no evidence that
8869 the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of
8870 use and dosing guidelines determined by the parent's or guardian's qualified medical provider
8871 or through a consultation described in Subsection [~~26-61a-502(4) or (5)~~] 26B-4-230(4) or (5);
8872 or

8873 (b) before January 1, 2021, the parent's or guardian's possession or use complies with
8874 Subsection 58-37-3.7(2) or (3).

8875 (5) Subsection (3) does not prohibit a finding of abuse or neglect of a child and
8876 Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis
8877 or a cannabis product is contrary to the best interests of a child, if there is evidence showing a
8878 nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior
8879 that would separately constitute abuse or neglect of the child.

8880 Section 147. Section **80-4-302** is amended to read:

8881 **80-4-302. Evidence of grounds for termination.**

8882 (1) In determining whether a parent or parents have abandoned a child, it is prima facie
8883 evidence of abandonment that the parent or parents:

8884 (a) although having legal custody of the child, have surrendered physical custody of the
8885 child, and for a period of six months following the surrender have not manifested to the child
8886 or to the person having the physical custody of the child a firm intention to resume physical
8887 custody or to make arrangements for the care of the child;

8888 (b) have failed to communicate with the child by mail, telephone, or otherwise for six
8889 months;

8890 (c) failed to have shown the normal interest of a natural parent, without just cause; or

8891 (d) have abandoned an infant, as described in Section 80-4-203.

8892 (2) In determining whether a parent or parents are unfit or have neglected a child the
8893 juvenile court shall consider:

8894 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the
8895 parent unable to care for the immediate and continuing physical or emotional needs of the child
8896 for extended periods of time;

8897 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive
8898 nature;

8899 (c) habitual or excessive use of intoxicating liquors, controlled substances, or
8900 dangerous drugs that render the parent unable to care for the child;

8901 (d) repeated or continuous failure to provide the child with adequate food, clothing,
8902 shelter, education, or other care necessary for the child's physical, mental, and emotional health
8903 and development by a parent or parents who are capable of providing that care;

8904 (e) whether the parent is incarcerated as a result of conviction of a felony, and the
8905 sentence is of such length that the child will be deprived of a normal home for more than one
8906 year;

8907 (f) a history of violent behavior;

8908 (g) whether the parent has intentionally exposed the child to pornography or material
8909 harmful to a minor, as defined in Section 76-10-1201; or

8910 (h) any other circumstance, conduct, or condition that the court considers relevant in
8911 the determination of whether a parent or parents are unfit or have neglected the child.

8912 (3) Notwithstanding Subsection (2)(c), the juvenile court may not discriminate against
8913 a parent because of or otherwise consider the parent's lawful possession or consumption of
8914 cannabis in a medicinal dosage form, a cannabis product, as those terms are defined in Section
8915 ~~[26-61a-102]~~ [26B-4-201](#) or a medical cannabis device, in accordance with ~~[Title 26, Chapter~~
8916 ~~61a, Utah Medical Cannabis Act]~~ Title 26B, Chapter 4, Part 2, Cannabinoid Research and
8917 Medical Cannabis.

8918 (4) A parent who, legitimately practicing the parent's religious beliefs, does not provide
8919 specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

8920 (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or
8921 unfit because of a health care decision made for a child by the child's parent unless the state or
8922 other party to the proceeding shows, by clear and convincing evidence, that the health care
8923 decision is not reasonable and informed.

8924 (b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to

8925 obtain a second health care opinion.

8926 (6) If a child has been placed in the custody of the division and the parent or parents
8927 fail to comply substantially with the terms and conditions of a plan within six months after the
8928 date on which the child was placed or the plan was commenced, whichever occurs later, that
8929 failure to comply is evidence of failure of parental adjustment.

8930 (7) The following circumstances are prima facie evidence of unfitness:

8931 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any
8932 child, due to known or substantiated abuse or neglect by the parent or parents;

8933 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to
8934 indicate the unfitness of the parent to provide adequate care to the extent necessary for the
8935 child's physical, mental, or emotional health and development;

8936 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement
8937 of the child;

8938 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to
8939 commit murder or manslaughter of a child or child abuse homicide; or

8940 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent
8941 of the child, without legal justification.

8942 Section 148. Section **80-4-501** is amended to read:

8943 **80-4-501. Definitions.**

8944 As used in this part:

8945 (1) "Hospital" means a general acute hospital, as that term is defined in Section
8946 ~~[26-21-2]~~ [26B-2-201](#), that is:

8947 (a) equipped with an emergency room;

8948 (b) open 24 hours a day, seven days a week; and

8949 (c) employs full-time health care professionals who have emergency medical services
8950 training.

8951 (2) "Newborn child" means a child who is approximately 30 days old or younger, as
8952 determined within a reasonable degree of medical certainty.

8953 Section 149. Section **80-6-402** is amended to read:

8954 **80-6-402. Procedure -- Standard.**

8955 (1) When a written motion is filed in accordance with Section [80-6-401](#) raising the

8956 issue of a minor's competency to proceed, or when the juvenile court raises the issue of a
8957 minor's competency to proceed, the juvenile court shall stay all proceedings under this chapter .

8958 (2) (a) If a motion for inquiry is opposed by either party, the juvenile court shall,
8959 before granting or denying the motion, hold a limited hearing solely for the purpose of
8960 determining the sufficiency of the motion.

8961 (b) If the juvenile court finds that the allegations of incompetency raise a bona fide
8962 doubt as to the minor's competency to proceed, the juvenile court shall:

8963 (i) enter an order for an evaluation of the minor's competency to proceed; and

8964 (ii) set a date for a hearing on the issue of the minor's competency.

8965 (3) After the granting of a motion, and before a full competency hearing, the juvenile
8966 court may order the department to evaluate the minor and to report to the juvenile court
8967 concerning the minor's mental condition.

8968 (4) The minor shall be evaluated by a forensic evaluator who:

8969 (a) has experience in juvenile forensic evaluations and juvenile brain development;

8970 (b) if it becomes apparent that the minor is not competent due to an intellectual
8971 disability or related condition, has experience in intellectual disability or related conditions;
8972 and

8973 (c) is not involved in the current treatment of the minor.

8974 (5) The petitioner or other party, as directed by the juvenile court, shall provide all
8975 information and materials relevant to a determination of the minor's competency to the
8976 department within seven days of the juvenile court's order, including:

8977 (a) the motion;

8978 (b) the arrest or incident reports pertaining to the charged offense;

8979 (c) the minor's known delinquency history information;

8980 (d) the minor's probation record relevant to competency;

8981 (e) known prior mental health evaluations and treatments; and

8982 (f) consistent with 20 U.S.C. Sec. 1232g (b)(1)(E)(ii)(I), records pertaining to the
8983 minor's education.

8984 (6) (a) The minor's parent or guardian, the prosecuting attorney, the defense attorney,
8985 and the attorney guardian ad litem, shall cooperate, by executing releases of information when
8986 necessary, in providing the relevant information and materials to the forensic evaluator,

8987 including:

8988 (i) medical records;

8989 (ii) prior mental evaluations; or

8990 (iii) records of diagnosis or treatment of substance abuse disorders.

8991 (b) The minor shall cooperate, by executing a release of information when necessary,
8992 in providing the relevant information and materials to the forensic evaluator regarding records
8993 of diagnosis or treatment of a substance abuse disorder.

8994 (7) (a) In conducting the evaluation and in the report determining if a minor is
8995 competent to proceed, the forensic evaluator shall inform the juvenile court of the forensic
8996 evaluator's opinion whether:

8997 (i) the minor has a present ability to consult with counsel with a reasonable degree of
8998 rational understanding; and

8999 (ii) the minor has a rational as well as factual understanding of the proceedings.

9000 (b) In evaluating the minor, the forensic evaluator shall consider the minor's present
9001 ability to:

9002 (i) understand the charges or allegations against the minor;

9003 (ii) communicate facts, events, and states of mind;

9004 (iii) understand the range of possible penalties associated with the allegations against
9005 the minor;

9006 (iv) engage in reasoned choice of legal strategies and options;

9007 (v) understand the adversarial nature of the proceedings against the minor;

9008 (vi) manifest behavior sufficient to allow the juvenile court to proceed;

9009 (vii) testify relevantly; and

9010 (viii) any other factor determined to be relevant to the forensic evaluator.

9011 (8) (a) The forensic evaluator shall provide an initial report to the juvenile court, the
9012 prosecuting and defense attorneys, and the attorney guardian ad litem, if applicable, within 30
9013 days of the receipt of the juvenile court's order.

9014 (b) If the forensic evaluator informs the juvenile court that additional time is needed,
9015 the juvenile court may grant, taking into consideration the custody status of the minor, up to an
9016 additional 15 days to provide the report to the juvenile court and counsel.

9017 (c) The forensic evaluator must provide the report within 45 days from the receipt of

9018 the juvenile court's order unless, for good cause shown, the juvenile court authorizes an
9019 additional period of time to complete the evaluation and provide the report.

9020 (d) The report shall inform the juvenile court of the forensic evaluator's opinion
9021 concerning the minor's competency.

9022 (9) If the forensic evaluator's opinion is that the minor is not competent to proceed, the
9023 report shall indicate:

9024 (a) the nature of the minor's:

9025 (i) mental illness;

9026 (ii) intellectual disability or related condition; or

9027 (iii) developmental immaturity;

9028 (b) the relationship of the minor's mental illness, intellectual disability, related
9029 condition, or developmental immaturity to the minor's incompetence;

9030 (c) whether there is a substantial likelihood that the minor may attain competency in
9031 the foreseeable future;

9032 (d) the amount of time estimated for the minor to achieve competency if the minor
9033 undergoes competency attainment treatment, including medication;

9034 (e) the sources of information used by the forensic evaluator; and

9035 (f) the basis for clinical findings and opinions.

9036 (10) Regardless of whether a minor consents to a competency evaluation, any
9037 statement made by the minor in the course of the competency evaluation, any testimony by the
9038 forensic evaluator based upon any statement made by the minor in the competency evaluation,
9039 and any other fruits of the statement made by the minor in the competency evaluation:

9040 (a) may not be admitted in evidence against the minor in a proceeding under this
9041 chapter, except the statement may be admitted on an issue respecting the mental condition on
9042 which the minor has introduced evidence; and

9043 (b) may be admitted where relevant to a determination of the minor's competency.

9044 (11) Before evaluating the minor for a competency evaluation, a forensic evaluator
9045 shall specifically advise the minor, and the minor's parent or guardian if reasonably available,
9046 of the limits of confidentiality as provided under Subsection (10).

9047 (12) When the report is received, the juvenile court shall set a date for a competency
9048 hearing that shall be held in not less than five and not more than 15 days, unless the juvenile

9049 court enlarges the time for good cause.

9050 (13) (a) A minor shall be presumed competent unless the juvenile court, by a
9051 preponderance of the evidence, finds the minor not competent to proceed.

9052 (b) The burden of proof is upon the proponent of incompetency to proceed.

9053 (14) (a) Following the hearing, the juvenile court shall determine by a preponderance
9054 of evidence whether the minor is:

9055 (i) competent to proceed;

9056 (ii) not competent to proceed with a substantial probability that the minor may attain
9057 competency in the foreseeable future; or

9058 (iii) not competent to proceed without a substantial probability that the minor may
9059 attain competency in the foreseeable future.

9060 (b) If the juvenile court enters a finding described in Subsection (14)(a)(i), the juvenile
9061 court shall proceed with the proceedings in the minor's case.

9062 (c) If the juvenile court enters a finding described in Subsection (14)(a)(ii), the juvenile
9063 court shall proceed in accordance with Section [80-6-403](#).

9064 (d) (i) If the juvenile court enters a finding described in Subsection (14)(a)(iii), the
9065 juvenile court shall terminate the competency proceeding, dismiss the charges against the
9066 minor without prejudice, and release the minor from any custody order related to the pending
9067 proceeding, unless the prosecutor informs the court that commitment proceedings will be
9068 initiated in accordance with:

9069 (A) [~~Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for~~
9070 ~~People with an Intellectual Disability~~] Title 26B, Chapter 6, Part 6, Admission to an
9071 Intermediate Care Facility for People with an Intellectual Disability;

9072 (B) if the minor is 18 years old or older, [~~Title 62A, Chapter 15, Part 6, Utah State~~
9073 ~~Hospital and Other Mental Health Facilities~~] Title 26B, Chapter 5, Part 3, Utah State Hospital
9074 and Other Mental Health Facilities; or

9075 (C) if the minor is a child, [~~Title 62A, Chapter 15, Part 7, Commitment of Persons~~
9076 ~~Under Age 18 to Division of Substance Abuse and Mental Health~~] Title 26B, Chapter 5, Part 4,
9077 Commitment of Persons Under Age 18.

9078 (ii) The commitment proceedings described in Subsection (14)(d)(i) shall be initiated
9079 within seven days after the day on which the juvenile court enters the order under Subsection

9080 (14)(a), unless the court enlarges the time for good cause shown.

9081 (iii) The juvenile court may order the minor to remain in custody until the commitment
9082 proceedings have been concluded.

9083 (15) If the juvenile court finds the minor not competent to proceed, the juvenile court's
9084 order shall contain findings addressing each of the factors in Subsection (7)(b).

9085 Section 150. Section **80-6-403** is amended to read:

9086 **80-6-403. Disposition on finding of not competent to proceed -- Subsequent**
9087 **hearings -- Notice to prosecuting attorneys.**

9088 (1) If the juvenile court determines that the minor is not competent to proceed, and
9089 there is a substantial likelihood that the minor may attain competency in the foreseeable future,
9090 the juvenile court shall notify the department of the finding and allow the department 30 days
9091 to develop an attainment plan for the minor.

9092 (2) The attainment plan shall include:

9093 (a) any services or treatment the minor has been or is currently receiving that are
9094 necessary to attain competency;

9095 (b) any additional services or treatment the minor may require to attain competency;

9096 (c) an assessment of the parent, custodian, or guardian's ability to access or provide any
9097 recommended treatment or services;

9098 (d) any special conditions or supervision that may be necessary for the safety of the
9099 minor or others during the attainment period; and

9100 (e) the likelihood that the minor will attain competency and the amount of time likely
9101 required for the minor to attain competency.

9102 (3) The department shall provide the attainment plan to the juvenile court, the
9103 prosecuting attorney, the defense attorney, and the attorney guardian ad litem at least three days
9104 before the competency disposition hearing.

9105 (4) (a) During the attainment period, the minor shall remain in the least restrictive
9106 appropriate setting.

9107 (b) A finding of not competent to proceed does not grant authority for a juvenile court
9108 to place a minor in the custody of a division of the department, or create eligibility for services
9109 from the Division of Services for People With Disabilities.

9110 (c) If the juvenile court orders the minor to be held in detention during the attainment

9111 period, the juvenile court shall make the following findings on the record:

9112 (i) the placement is the least restrictive appropriate setting;

9113 (ii) the placement is in the best interest of the minor;

9114 (iii) the minor will have access to the services and treatment required by the attainment
9115 plan in the placement; and

9116 (iv) the placement is necessary for the safety of the minor or others.

9117 (d) A juvenile court shall terminate an order of detention related to the pending
9118 proceeding for a minor who is not competent to proceed in that matter if:

9119 (i) the most severe allegation against the minor if committed by an adult is a class B
9120 misdemeanor;

9121 (ii) more than 60 days have passed after the day on which the juvenile court
9122 adjudicated the minor not competent to proceed; and

9123 (iii) the minor has not attained competency.

9124 (5) (a) At any time that the minor becomes competent to proceed during the attainment
9125 period, the department shall notify the juvenile court, the prosecuting attorney, the defense
9126 attorney, and the attorney guardian ad litem.

9127 (b) The juvenile court shall hold a hearing with 15 business days of notice from the
9128 department described in Subsection (5)(a).

9129 (6) (a) If at any time during the attainment period the juvenile court finds that there is
9130 not a substantial probability that the minor will attain competency in the foreseeable future, the
9131 juvenile court shall terminate the competency proceeding, dismiss the petition or information
9132 without prejudice, and release the minor from any custody order related to the pending
9133 proceeding, unless the prosecuting attorney or any other individual informs the juvenile court
9134 that commitment proceedings will be initiated in accordance with:

9135 (i) [~~Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People~~
9136 ~~with an Intellectual Disability~~] Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care
9137 Facility for People with an Intellectual Disability;

9138 (ii) if the minor is 18 years old or older, [~~Title 62A, Chapter 15, Part 6, Utah State~~
9139 ~~Hospital and Other Mental Health Facilities~~] Title 26B, Chapter 5, Part 3, Utah State Hospital
9140 and Other Mental Health Facilities; or

9141 (iii) if the minor is a child, [~~Title 62A, Chapter 15, Part 7, Commitment of Persons~~

9142 ~~Under Age 18 to Division of Substance Abuse and Mental Health]~~ Title 26B, Chapter 5, Part 4,
9143 Commitment of Persons Under Age .

9144 (b) The prosecuting attorney shall initiate the proceedings described in Subsection
9145 (6)(a) within seven days after the juvenile court's order, unless the juvenile court enlarges the
9146 time for good cause shown.

9147 (7) During the attainment period, the juvenile court may order a hearing or rehearing at
9148 anytime on the juvenile court's own motion or upon recommendation of any interested party or
9149 the department.

9150 (8) (a) Within three months of the juvenile court's approval of the attainment plan, the
9151 department shall provide a report on the minor's progress towards competence.

9152 (b) The report described in Subsection (8)(a) shall address the minor's:

9153 (i) compliance with the attainment plan;

9154 (ii) progress towards competency based on the issues identified in the original
9155 competency evaluation; and

9156 (iii) current mental illness, intellectual disability or related condition, or developmental
9157 immaturity, and need for treatment, if any, and whether there is substantial likelihood of the
9158 minor attaining competency within six months.

9159 (9) (a) Within 30 days of receipt of the report, the juvenile court shall hold a hearing to
9160 determine the minor's current status.

9161 (b) At the hearing, the burden of proving the minor is competent is on the proponent of
9162 competency.

9163 (c) The juvenile court shall determine by a preponderance of the evidence whether the
9164 minor is competent to proceed.

9165 (10) If the minor has not attained competency after the initial three month attainment
9166 period but is showing reasonable progress towards attainment of competency, the juvenile
9167 court may extend the attainment period up to an additional three months.

9168 (11) The department shall provide an updated juvenile competency evaluation at the
9169 conclusion of the six month attainment period to advise the juvenile court on the minor's
9170 current competency status.

9171 (12) If the minor does not attain competency within six months after the juvenile court
9172 initially finds the minor not competent to proceed, the court shall terminate the competency

9173 proceedings and dismiss the petition or information filed without prejudice, unless good cause
9174 is shown that there is a substantial likelihood the minor will attain competency within one year
9175 from the initial finding of not competent to proceed.

9176 (13) In the event a minor has an unauthorized leave lasting more than 24 hours, the
9177 attainment period shall toll until the minor returns.

9178 (14) (a) Regardless of whether a minor consents to attainment, any statement made by
9179 the minor in the course of attainment, any testimony by the forensic evaluator based upon any
9180 statement made by the minor in the course of attainment, and any other fruits of a statement
9181 made by the minor in the course of attainment:

9182 (i) may not be admitted in evidence against the minor in a proceeding under this
9183 chapter, except the statement may be admitted on an issue respecting the mental condition on
9184 which the minor has introduced evidence; and

9185 (ii) may be admitted where relevant to a determination of the minor's competency.

9186 (b) Before evaluating the minor during the attainment period, a forensic evaluator shall
9187 specifically advise the minor, and the minor's parent or guardian if reasonably available, of the
9188 limits of confidentiality provided in Subsection (14)(a).

9189 Section 151. Section **80-6-608** is amended to read:

9190 **80-6-608. When photographs, fingerprints, or HIV infection tests may be taken --**
9191 **Distribution -- DNA collection -- Reimbursement.**

9192 (1) The division shall take a photograph and fingerprints of a minor who is:

9193 (a) 14 years old or older at the time of the alleged commission of an offense that would
9194 be a felony if the minor were 18 years old or older; and

9195 (b) admitted to a detention facility for the alleged commission of the offense.

9196 (2) The juvenile court shall order a minor who is 14 years old or older at the time that
9197 the minor is alleged to have committed an offense described in Subsection (2)(a) or (b) to have
9198 the minor's fingerprints taken at a detention facility or a local law enforcement agency if the
9199 minor is:

9200 (a) adjudicated for an offense that would be a class A misdemeanor if the minor were
9201 18 years old or older; or

9202 (b) adjudicated for an offense that would be a felony if the minor were 18 years old or
9203 older and the minor was not admitted to a detention facility.

- 9204 (3) The juvenile court shall take a photograph of a minor who is:
- 9205 (a) 14 years old or older at the time the minor was alleged to have committed an
- 9206 offense that would be a felony or a class A misdemeanor if the minor were 18 years old or
- 9207 older; and
- 9208 (b) adjudicated for the offense described in Subsection (3)(a).
- 9209 (4) If a minor's fingerprints are taken under this section, the minor's fingerprints shall
- 9210 be forwarded to the Bureau of Criminal Identification and may be stored by electronic medium.
- 9211 (5) HIV testing shall be conducted on a minor who is taken into custody after having
- 9212 been adjudicated for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, upon
- 9213 the request of:
- 9214 (a) the victim;
- 9215 (b) the parent or guardian of a victim who is younger than 14 years old; or
- 9216 (c) the guardian of the alleged victim if the victim is a vulnerable adult as defined in
- 9217 Section [~~62A-3-301~~] [26B-6-201](#).
- 9218 (6) HIV testing shall be conducted on a minor against whom a petition has been filed
- 9219 or a pickup order has been issued for the commission of any offense under Title 76, Chapter 5,
- 9220 Part 4, Sexual Offenses:
- 9221 (a) upon the request of:
- 9222 (i) the victim;
- 9223 (ii) the parent or guardian of a victim who is younger than 14 years old; or
- 9224 (iii) the guardian of the alleged victim if the victim is a vulnerable adult as defined in
- 9225 Section [~~62A-3-301~~] [26B-6-201](#); and
- 9226 (b) in which:
- 9227 (i) the juvenile court has signed an accompanying arrest warrant, pickup order, or any
- 9228 other order based upon probable cause regarding the alleged offense; and
- 9229 (ii) the juvenile court has found probable cause to believe that the alleged victim has
- 9230 been exposed to HIV infection as a result of the alleged offense.
- 9231 (7) HIV tests, photographs, and fingerprints may not be taken of a child who is younger
- 9232 than 14 years old without the consent of the juvenile court.
- 9233 (8) (a) Photographs taken under this section may be distributed or disbursed to:
- 9234 (i) state and local law enforcement agencies;

- 9235 (ii) the judiciary; and
- 9236 (iii) the division.
- 9237 (b) Fingerprints may be distributed or disbursed to:
- 9238 (i) state and local law enforcement agencies;
- 9239 (ii) the judiciary;
- 9240 (iii) the division; and
- 9241 (iv) agencies participating in the Western Identification Network.
- 9242 (9) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction
- 9243 of the juvenile court as described in Subsection 53-10-403(3).
- 9244 (b) The DNA specimen shall be obtained, in accordance with Subsection 53-10-404(4),
- 9245 by:
- 9246 (i) designated employees of the juvenile court; or
- 9247 (ii) if the minor is committed to the division, designated employees of the division.
- 9248 (c) The responsible agency under Subsection (9)(b) shall ensure that an employee
- 9249 designated to collect the saliva DNA specimens receives appropriate training and that the
- 9250 specimens are obtained in accordance with accepted protocol.
- 9251 (d) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the
- 9252 DNA Specimen Restricted Account created in Section 53-10-407.
- 9253 (e) Payment of the reimbursement is second in priority to payments the minor is
- 9254 ordered to make for restitution under Section 80-6-710 and for treatment ordered under Section
- 9255 80-3-403.
- 9256 Section 152. Section 80-6-706 is amended to read:
- 9257 **80-6-706. Treatment -- Commitment to local mental health authority or Utah**
- 9258 **State Developmental Center.**
- 9259 (1) If a minor is adjudicated under Section 80-6-701, the juvenile court may order:
- 9260 (a) a nonresidential, diagnostic assessment for the minor, including a risk assessment
- 9261 for substance use disorder, mental health, psychological, or sexual behavior;
- 9262 (b) the minor to be examined or treated by a physician, surgeon, psychiatrist, or
- 9263 psychologist; or
- 9264 (c) other care for the minor.
- 9265 (2) For purposes of receiving the examination, treatment, or care described in

9266 Subsection (1), the juvenile court may place the minor in a hospital or other suitable facility
9267 that is not secure care or secure detention.

9268 (3) In determining whether to order the examination, treatment, or care described in
9269 Subsection (1), the juvenile court shall consider:

9270 (a) the desires of the minor;

9271 (b) if the minor is a child, the desires of the minor's parent or guardian; and

9272 (c) whether the potential benefits of the examination, treatment, or care outweigh the
9273 potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain
9274 function impairment, or emotional or physical harm resulting from the compulsory nature of
9275 the examination, treatment, or care.

9276 (4) (a) If the juvenile court orders examination, treatment, or care for a child under
9277 Subsection (1) and the child is committed to the division under Subsection [80-6-703](#)(2), the
9278 division shall:

9279 (i) take reasonable measures to notify the child's parent or guardian of any
9280 non-emergency health treatment or care scheduled for the child;

9281 (ii) include the child's parent or guardian as fully as possible in making health care
9282 decisions for the child; and

9283 (iii) defer to the child's parent's or guardian's reasonable and informed decisions
9284 regarding the child's health care to the extent that the child's health and well-being are not
9285 unreasonably compromised by the parent's or guardian's decision.

9286 (b) The division shall notify the parent or guardian of a child within five business days
9287 after a child committed to the division receives emergency health care or treatment.

9288 (c) The division shall use the least restrictive means to accomplish the care and
9289 treatment of a child described under Subsection (1).

9290 (5) If a child is adjudicated for an offense under Section [80-6-701](#), the juvenile court
9291 may commit the child to the physical custody, as defined in Section [~~62A-15-701~~] [26B-5-401](#),
9292 of a local mental health authority in accordance with the procedures and requirements in [~~Title~~
9293 ~~62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance~~
9294 ~~Abuse and Mental Health~~] Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age
9295 18.

9296 (6) (a) If a minor is adjudicated for an offense under Section [80-6-701](#), and the minor

9297 has an intellectual disability, the juvenile court may commit the minor to the Utah State
 9298 Developmental Center in accordance with [~~Title 62A, Chapter 5, Part 3, Admission to an~~
 9299 ~~Intermediate Care Facility for People with an Intellectual Disability~~] Title 26B, Chapter 6, Part
 9300 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

9301 (b) The juvenile court shall follow the procedure applicable in the district courts with
 9302 respect to judicial commitments to the Utah State Developmental Center when ordering a
 9303 commitment under Subsection (6)(a).

9304 Section 153. Section **80-6-801** is amended to read:

9305 **80-6-801. Commitment to local mental health authority or Utah State**
 9306 **Developmental Center.**

9307 (1) If a child is committed by the juvenile court to the physical custody, as defined in
 9308 Section [~~62A-15-701~~] 26B-5-401, of a local mental health authority, or the local mental health
 9309 authority's designee, [~~Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to~~
 9310 ~~Division of Substance Abuse and Mental Health~~] Title 26B, Chapter 5, Part 4, Commitment of
 9311 Persons Under Age 18, shall govern the commitment and release of the minor.

9312 (2) If a minor is committed to the Utah State Developmental Center, [~~Title 62A,~~
 9313 ~~Chapter 5, Services for People with Disabilities~~] Title 26B, Chapter 6, Part 4, Division of
 9314 Services for People with Disabilities, shall govern the commitment and release of the minor.

9315 Section 154. **Revisor instructions.**

9316 The Legislature intends that the Office of Legislative Research and General Counsel, in
 9317 preparing the Utah Code database for publication, not enroll this bill if any of the following
 9318 bills do not pass:

9319 (a) S.B. 38, Health and Human Services Recodification - Administration, Licensing,
 9320 and Recovery Services;

9321 (b) S.B. 39, Health and Human Services Recodification - Prevention, Supports,
 9322 Substance Use and Mental Health;

9323 (c) S.B. 40, Health and Human Services Recodification - Health Care Assistance and
 9324 Data; or

9325 (d) S.B. 41, Health and Human Services Recodification - Health Care Delivery and
 9326 Repeals.