

**Representative Raymond P. Ward** proposes the following substitute bill:

**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

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**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 - Health Care Assistance and Data;
  - S.B. 40, Health and Human Services Recodification - Health Care Delivery and Repeals; and
  - S.B. 41, Health and Human Services Recodification - Prevention, Supports, Substance Use and Mental Health; and
- ▶ makes technical and corresponding changes.

**Money Appropriated in this Bill:**



26 None

27 **Other Special Clauses:**

28 This bill provides revisor instructions.

29 This bill provides coordination clauses.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **63J-1-601**, as last amended by Laws of Utah 2022, Chapters 68, 451

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

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

38 **63J-5-206**, as last amended by Laws of Utah 2018, Chapter 467

39 **63J-7-102**, as last amended by Laws of Utah 2022, Chapters 224, 451 and 456

40 **63M-7-204**, as last amended by Laws of Utah 2022, Chapter 187

41 **63M-7-209**, as last amended by Laws of Utah 2022, Chapter 36

42 **63M-7-216**, as enacted by Laws of Utah 2020, Chapter 200

43 **63M-7-301**, as last amended by Laws of Utah 2022, Chapter 255

44 **63M-7-303**, as last amended by Laws of Utah 2022, Chapter 211

45 **63M-13-202**, as last amended by Laws of Utah 2020, Chapter 354

46 **64-13-37**, as enacted by Laws of Utah 1993, Chapter 277

47 **64-13-39**, as enacted by Laws of Utah 1995, Chapter 353

48 **64-13-39.5**, as last amended by Laws of Utah 2009, Chapter 355

49 **64-13-44**, as enacted by Laws of Utah 2013, Chapter 256

50 **67-3-1**, as last amended by Laws of Utah 2022, Chapter 307

51 **67-3-11**, as last amended by Laws of Utah 2022, Chapter 255

52 **67-5-1**, as last amended by Laws of Utah 2022, Chapter 222

53 **67-5-16**, as last amended by Laws of Utah 2022, Chapter 335

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

56 **71-11-5**, as last amended by Laws of Utah 2018, Chapter 39

- 57 [72-6-107.5](#), as last amended by Laws of Utah 2022, Chapters 421, 443
- 58 [72-9-103](#), as last amended by Laws of Utah 2017, Chapter 96
- 59 [72-10-502](#), as last amended by Laws of Utah 2018, Chapter 35
- 60 [75-1-107](#), as last amended by Laws of Utah 2003, Chapter 49
- 61 [75-2a-103](#), as last amended by Laws of Utah 2022, Chapter 277
- 62 [75-2a-106](#), as last amended by Laws of Utah 2021, Chapter 223
- 63 [75-3-104.5](#), as last amended by Laws of Utah 2020, Chapter 205
- 64 [75-3-803](#), as last amended by Laws of Utah 2018, Chapter 443
- 65 [75-3-805](#), as last amended by Laws of Utah 2018, Chapter 443
- 66 [75-5-309](#), as last amended by Laws of Utah 2018, Chapter 455
- 67 [75-5-311](#), as last amended by Laws of Utah 2018, Chapter 455
- 68 [75-7-508](#), as last amended by Laws of Utah 2018, Chapter 443
- 69 [75-7-509](#), as last amended by Laws of Utah 2004, Chapters 72, 90 and renumbered and
- 70 amended by Laws of Utah 2004, Chapter 89
- 71 [75-7-511](#), as last amended by Laws of Utah 2018, Chapter 443
- 72 [76-3-203.11](#), as last amended by Laws of Utah 2020, Chapter 131
- 73 [76-5-102.6](#), as last amended by Laws of Utah 2022, Chapter 181
- 74 [76-5-102.7](#), as last amended by Laws of Utah 2022, Chapters 117, 181
- 75 [76-5-102.9](#), as last amended by Laws of Utah 2022, Chapter 181
- 76 [76-5-112.5](#), as last amended by Laws of Utah 2022, Chapter 181
- 77 [76-5-113](#), as last amended by Laws of Utah 2022, Chapter 181
- 78 [76-5-412](#), as last amended by Laws of Utah 2022, Chapter 181
- 79 [76-5b-201](#), as last amended by Laws of Utah 2022, Chapters 181, 185
- 80 [76-6-106](#), as last amended by Laws of Utah 2012, Chapter 135
- 81 [76-6-702](#), as last amended by Laws of Utah 2017, Chapters 462, 467
- 82 [76-7-301](#), as last amended by Laws of Utah 2021, Chapter 262
- 83 [76-7-305](#), as last amended by Laws of Utah 2022, Chapter 181
- 84 [76-7-305.5](#), as last amended by Laws of Utah 2020, Chapter 251
- 85 [76-7-306](#), as repealed and reenacted by Laws of Utah 2011, Chapter 277
- 86 [76-7-313](#), as last amended by Laws of Utah 2019, Chapters 124, 208
- 87 [76-7-314](#), as last amended by Laws of Utah 2019, Chapter 208

- 88            [76-8-311.1](#), as last amended by Laws of Utah 2020, Chapter 396
- 89            [76-8-311.3](#), as last amended by Laws of Utah 2020, Chapters 302, 347
- 90            [76-8-1202](#), as last amended by Laws of Utah 1997, Chapter 174
- 91            [76-9-307](#), as last amended by Laws of Utah 2009, Chapter 110
- 92            [76-9-704](#), as last amended by Laws of Utah 2007, Chapters 60, 231
- 93            [76-10-101](#), as last amended by Laws of Utah 2022, Chapter 199
- 94            [76-10-526](#), as last amended by Laws of Utah 2021, Chapters 166, 277
- 95            [76-10-528](#), as last amended by Laws of Utah 2022, Chapter 159
- 96            [76-10-1311](#), as last amended by Laws of Utah 2008, Chapter 382
- 97            [76-10-1312](#), as last amended by Laws of Utah 2011, Chapter 70
- 98            [76-10-1602](#), as last amended by Laws of Utah 2022, Chapters 181, 185
- 99            [76-10-2204](#), as enacted by Laws of Utah 2019, Chapter 377
- 100           [76-10-3105](#), as renumbered and amended by Laws of Utah 2013, Chapter 187
- 101           [77-15-6](#), as last amended by Laws of Utah 2018, Chapter 147
- 102           [77-15a-104](#), as last amended by Laws of Utah 2018, Chapter 281
- 103           [77-15a-105](#), as enacted by Laws of Utah 2003, Chapter 11
- 104           [77-16a-101](#), as last amended by Laws of Utah 2011, Chapter 366
- 105           [77-16a-202](#), as last amended by Laws of Utah 2011, Chapter 366
- 106           [77-16a-203](#), as last amended by Laws of Utah 2011, Chapter 366
- 107           [77-16a-204](#), as last amended by Laws of Utah 2011, Chapter 366
- 108           [77-16a-302](#), as last amended by Laws of Utah 2011, Chapter 366
- 109           [77-18-102](#), as enacted by Laws of Utah 2021, Chapter 260
- 110           [77-18-106](#), as enacted by Laws of Utah 2021, Chapter 260
- 111           [77-19-204](#), as enacted by Laws of Utah 2004, Chapter 137
- 112           [77-19-205](#), as enacted by Laws of Utah 2004, Chapter 137
- 113           [77-19-206](#), as enacted by Laws of Utah 2004, Chapter 137
- 114           [77-23-213](#), as last amended by Laws of Utah 2019, Chapter 349
- 115           [77-32b-103](#), as last amended by Laws of Utah 2022, Chapters 328, 359
- 116           [77-40a-305](#), as last amended by Laws of Utah 2022, Chapter 384 and renumbered and
- 117 amended by Laws of Utah 2022, Chapter 250
- 118           [77-40a-306](#), as enacted by Laws of Utah 2022, Chapter 250

- 119 [78A-2-231](#), as last amended by Laws of Utah 2022, Chapter 256
- 120 [78A-2-301](#), as last amended by Laws of Utah 2022, Chapters 276, 384
- 121 [78A-5-201](#), as last amended by Laws of Utah 2022, Chapter 187
- 122 [78A-6-103](#), as last amended by Laws of Utah 2022, Chapters 155, 335
- 123 [78A-6-208](#), as last amended by Laws of Utah 2021, Chapter 261
- 124 [78A-6-209](#), as last amended by Laws of Utah 2022, Chapters 335, 430
- 125 [78A-6-356](#), as last amended by Laws of Utah 2022, Chapters 334, 470
- 126 [78B-3-403](#), as last amended by Laws of Utah 2022, Chapters 356, 415
- 127 [78B-3-405](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 128 [78B-3-701](#), as last amended by Laws of Utah 2009, Chapter 110
- 129 [78B-4-501](#), as last amended by Laws of Utah 2018, Chapter 62
- 130 [78B-5-618](#), as last amended by Laws of Utah 2022, Chapter 327
- 131 [78B-5-902](#), as last amended by Laws of Utah 2022, Chapter 255
- 132 [78B-5-904](#), as enacted by Laws of Utah 2021, Chapter 208
- 133 [78B-6-103](#), as last amended by Laws of Utah 2022, Chapter 335
- 134 [78B-6-113](#), as last amended by Laws of Utah 2017, Chapter 280
- 135 [78B-6-124](#), as last amended by Laws of Utah 2022, Chapter 335
- 136 [78B-6-128](#), as last amended by Laws of Utah 2022, Chapter 335
- 137 [78B-6-131](#), as last amended by Laws of Utah 2022, Chapter 335
- 138 [78B-6-142](#), as last amended by Laws of Utah 2020, Chapter 201
- 139 [78B-7-205](#), as last amended by Laws of Utah 2020, Chapter 142
- 140 [78B-7-603](#), as last amended by Laws of Utah 2022, Chapter 142
- 141 [78B-8-401](#), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 16
- 142 [78B-8-402](#), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 16
- 143 [78B-8-404](#), as last amended by Laws of Utah 2017, Chapter 185
- 144 [78B-10-106](#), as last amended by Laws of Utah 2022, Chapter 335
- 145 [78B-12-102](#), as last amended by Laws of Utah 2021, Chapter 111
- 146 [78B-12-111](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 147 [78B-12-112](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 148 [78B-12-113](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 149 [78B-12-216](#), as renumbered and amended by Laws of Utah 2008, Chapter 3

150 **78B-12-402**, as last amended by Laws of Utah 2019, Chapter 136  
151 **78B-14-103**, as and further amended by Revisor Instructions, Laws of Utah 2013,  
152 Chapter 245  
153 **78B-14-501**, as renumbered and amended by Laws of Utah 2008, Chapter 3  
154 **78B-14-605**, as last amended by Laws of Utah 2015, Chapter 45  
155 **78B-14-703**, as and further amended by Revisor Instructions, Laws of Utah 2013,  
156 Chapter 245  
157 **78B-14-704**, as and further amended by Revisor Instructions, Laws of Utah 2013,  
158 Chapter 245  
159 **78B-15-104**, as last amended by Laws of Utah 2021, Chapter 261  
160 **78B-15-107**, as renumbered and amended by Laws of Utah 2008, Chapter 3  
161 **78B-24-203**, as enacted by Laws of Utah 2022, Chapter 326  
162 **78B-24-307**, as enacted by Laws of Utah 2022, Chapter 326  
163 **78B-24-308**, as enacted by Laws of Utah 2022, Chapter 326  
164 **79-2-404**, as last amended by Laws of Utah 2022, Chapters 421, 443  
165 **80-1-102**, as last amended by Laws of Utah 2022, Chapters 155, 185, 217, 255, 326,  
166 334, and 430  
167 **80-1-103**, as renumbered and amended by Laws of Utah 2021, Chapter 261  
168 **80-2-501**, as renumbered and amended by Laws of Utah 2022, Chapter 334  
169 **80-2-603**, as renumbered and amended by Laws of Utah 2022, Chapter 334  
170 **80-2-604**, as renumbered and amended by Laws of Utah 2022, Chapter 334  
171 **80-2-802**, as enacted by Laws of Utah 2022, Chapter 334  
172 **80-2-803**, as enacted by Laws of Utah 2022, Chapter 334  
173 **80-2-804**, as renumbered and amended by Laws of Utah 2022, Chapter 334  
174 **80-2-909**, as renumbered and amended by Laws of Utah 2022, Chapter 334  
175 **80-2-1001**, as renumbered and amended by Laws of Utah 2022, Chapter 334  
176 **80-2-1002**, as renumbered and amended by Laws of Utah 2022, Chapter 334  
177 **80-2-1005**, as last amended by Laws of Utah 2022, Chapters 187, 255 and 430 and  
178 renumbered and amended by Laws of Utah 2022, Chapter 334  
179 **80-2a-202**, as renumbered and amended by Laws of Utah 2022, Chapter 334  
180 **80-2a-301**, as last amended by Laws of Utah 2022, Chapter 287 and renumbered and

181 amended by Laws of Utah 2022, Chapter 334 and last amended by Coordination Clause, Laws  
182 of Utah 2022, Chapter 334

183 **80-3-110**, as last amended by Laws of Utah 2022, Chapter 256

184 **80-3-204**, as last amended by Laws of Utah 2022, Chapter 335

185 **80-3-302**, as last amended by Laws of Utah 2022, Chapters 287, 334

186 **80-3-305**, as last amended by Laws of Utah 2022, Chapter 334

187 **80-3-404**, as last amended by Laws of Utah 2022, Chapters 255, 334

188 **80-3-405**, as last amended by Laws of Utah 2022, Chapter 335

189 **80-3-504**, as enacted by Laws of Utah 2022, Chapter 334

190 **80-4-109**, as enacted by Laws of Utah 2021, Chapter 261

191 **80-4-302**, as renumbered and amended by Laws of Utah 2021, Chapter 261

192 **80-4-501**, as renumbered and amended by Laws of Utah 2022, Chapter 334

193 **80-6-402**, as last amended by Laws of Utah 2022, Chapter 152

194 **80-6-403**, as last amended by Laws of Utah 2022, Chapter 152

195 **80-6-608**, as renumbered and amended by Laws of Utah 2021, Chapter 261

196 **80-6-706**, as enacted by Laws of Utah 2021, Chapter 261

197 **80-6-801**, as enacted by Laws of Utah 2021, Chapter 261

198 **Utah Code Sections Affected by Coordination Clause:**

199 **63M-7-303**, as last amended by Laws of Utah 2022, Chapter 211

200 **78A-2-231**, as last amended by Laws of Utah 2022, Chapter 256

201 **80-3-110**, as last amended by Laws of Utah 2022, Chapter 256

202 **80-4-109**, as enacted by Laws of Utah 2021, Chapter 261



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

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

206 **63J-1-601. End of fiscal year -- Unexpended balances -- Funds not to be closed**  
207 **out -- Pending claims -- Transfer of amounts from item of appropriation -- Nonlapsing**  
208 **accounts and funds -- Institutions of higher education to report unexpended balances.**

209 (1) As used in this section:

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

211 (i) receives a subaward from the State Board of Education to carry out at least part of a

212 federal or state grant program; and

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

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

218 (2) On or before August 31 of each fiscal year, the director of the Division of Finance  
219 shall close out to the proper fund or account all remaining unexpended and unencumbered  
220 balances of appropriations made by the Legislature, except:

221 (a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act, as:

222 (i) enterprise funds;

223 (ii) internal service funds;

224 (iii) fiduciary funds;

225 (iv) capital projects funds;

226 (v) discrete component unit funds;

227 (vi) debt service funds; and

228 (vii) permanent funds;

229 (b) those appropriations from a fund or account or appropriations to a program that are  
230 designated as nonlapsing under Section [63J-1-602.1](#) or [63J-1-602.2](#);

231 (c) expendable special revenue funds, unless specifically directed to close out the fund  
232 in the fund's enabling legislation;

233 (d) acquisition and development funds appropriated to the Division of State Parks or  
234 the Division of Outdoor Recreation;

235 (e) funds encumbered to pay purchase orders issued before May 1 for capital  
236 equipment if delivery is expected before June 30; and

237 (f) unexpended and unencumbered balances of appropriations that meet the  
238 requirements of Section [63J-1-603](#).

239 (3) (a) Liabilities and related expenses for goods and services received on or before  
240 June 30 shall be recognized as expenses due and payable from appropriations made before June  
241 30.

242 (b) The liability and related expense shall be recognized within time periods



243 established by the Division of Finance but shall be recognized not later than August 31.

244 (c) Liabilities and expenses not so recognized may be paid from regular departmental  
245 appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and  
246 unencumbered balances of appropriations for the years in which the obligation was incurred.

247 (d) Amounts may not be transferred from an item of appropriation of any department,  
248 institution, or agency into the Capital Projects Fund or any other fund without the prior express  
249 approval of the Legislature.

250 (4) (a) For purposes of this chapter, a claim processed under the authority of [~~Title 26,~~  
251 ~~Chapter 18, Medical Assistance Act~~] Title 26B, Chapter 3, Health Care - Administration and  
252 Assistance:

253 (i) is not a liability or an expense to the state for budgetary purposes, unless the  
254 Division of [~~Health Care Financing~~] Integrated Healthcare receives the claim within the time  
255 periods established by the Division of Finance under Subsection (3)(b); and

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

257 (b) The transaction control number that the Division of [~~Health Care Financing~~]  
258 Integrated Healthcare records on each claim invoice is the date of receipt.

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

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

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

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

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

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

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

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

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

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

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

281 **63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**

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

283 (1) The Utah Intracurricular Student Organization Support for Agricultural Education  
284 and Leadership Restricted Account created in Section [4-42-102](#).

285 (2) The Native American Repatriation Restricted Account created in Section [9-9-407](#).

286 (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in  
287 Section [9-18-102](#).

288 (4) The National Professional Men's Soccer Team Support of Building Communities  
289 Restricted Account created in Section [9-19-102](#).

290 (5) Funds collected for directing and administering the C-PACE district created in  
291 Section [11-42a-106](#).

292 (6) Money received by the Utah Inland Port Authority, as provided in Section  
293 [11-58-105](#).

294 (7) The "Latino Community Support Restricted Account" created in Section [13-1-16](#).

295 (8) The Clean Air Support Restricted Account created in Section [19-1-109](#).

296 (9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in  
297 Section [19-2a-106](#).

298 (10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in  
299 Section [19-5-126](#).

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

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

304 (13) Funds collected from the program fund for local health department expenses

- 305 incurred in responding to a local health emergency under Section [~~26-1-38~~] [26B-7-111](#).
- 306 (14) The Children with Cancer Support Restricted Account created in Section
- 307 [~~26-21a-304~~] [26B-1-314](#).
- 308 (15) State funds for matching federal funds in the Children's Health Insurance Program
- 309 as provided in Section [~~26-40-108~~] [26B-3-906](#).
- 310 (16) The Children with Heart Disease Support Restricted Account created in Section[
- 311 ~~26-58-102~~] [26B-1-321](#).
- 312 (17) The Technology Development Restricted Account created in Section [31A-3-104](#).
- 313 (18) The Criminal Background Check Restricted Account created in Section
- 314 [31A-3-105](#).
- 315 (19) The Captive Insurance Restricted Account created in Section [31A-3-304](#), except
- 316 to the extent that Section [31A-3-304](#) makes the money received under that section free revenue.
- 317 (20) The Title Licensee Enforcement Restricted Account created in Section
- 318 [31A-23a-415](#).
- 319 (21) The Health Insurance Actuarial Review Restricted Account created in Section
- 320 [31A-30-115](#).
- 321 (22) The Insurance Fraud Investigation Restricted Account created in Section
- 322 [31A-31-108](#).
- 323 (23) The Underage Drinking Prevention Media and Education Campaign Restricted
- 324 Account created in Section [32B-2-306](#).
- 325 (24) The Drinking While Pregnant Prevention Media and Education Campaign
- 326 Restricted Account created in Section [32B-2-308](#).
- 327 (25) The School Readiness Restricted Account created in Section [35A-15-203](#).
- 328 (26) Money received by the Utah State Office of Rehabilitation for the sale of certain
- 329 products or services, as provided in Section [35A-13-202](#).
- 330 (27) The Oil and Gas Administrative Penalties Account created in Section [40-6-11](#).
- 331 (28) The Oil and Gas Conservation Account created in Section [40-6-14.5](#).
- 332 (29) The Division of Oil, Gas, and Mining Restricted account created in Section
- 333 [40-6-23](#).
- 334 (30) The Electronic Payment Fee Restricted Account created by Section [41-1a-121](#) to
- 335 the Motor Vehicle Division.

336 (31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account  
337 created by Section 41-3-110 to the State Tax Commission.

338 (32) The Utah Law Enforcement Memorial Support Restricted Account created in  
339 Section 53-1-120.

340 (33) The State Disaster Recovery Restricted Account to the Division of Emergency  
341 Management, as provided in Section 53-2a-603.

342 (34) The Post Disaster Recovery and Mitigation Restricted Account created in Section  
343 53-2a-1302.

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

346 (36) The Utah Highway Patrol Aero Bureau Restricted Account created in Section  
347 53-8-303.

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

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

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

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

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

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

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

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

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

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

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

367 (48) Certain fines collected by the Division of Professional Licensing for use in  
368 education and enforcement of the Security Personnel Licensing Act, as provided in Section  
369 [58-63-103](#).

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

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

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

374 (52) Funds paid to the Division of Real Estate for the cost of a criminal background  
375 check for principal broker, associate broker, and sales agent licenses, as provided in Section  
376 [61-2f-204](#).

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

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

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

383 (56) The Choose Life Adoption Support Restricted Account created in Section  
384 [80-2-502](#).

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

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

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

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

391 (61) The Unified Statewide 911 Emergency Service Account created in Section  
392 [63H-7a-304](#).

393 (62) The Utah Statewide Radio System Restricted Account created in Section  
394 [63H-7a-403](#).

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

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

397 (65) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission,

398 as provided under Section 63N-10-301.

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

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

403 (68) The Amusement Ride Safety Restricted Account, as provided in Section  
404 72-16-204.

405 (69) Certain funds received by the Office of the State Engineer for well drilling fines or  
406 bonds, as provided in Section 73-3-25.

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

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

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

412 (73) Funds collected for adoption document access as provided in Sections 78B-6-141,  
413 78B-6-144, and 78B-6-144.5.

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

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

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

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

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

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

426 **63J-1-602.2. List of nonlapsing appropriations to programs.**

427 Appropriations made to the following programs are nonlapsing:

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

429 (2) The State Board of Education, including all appropriations to agencies, line items,  
 430 and programs under the jurisdiction of the State Board of Education, in accordance with  
 431 Section [53F-9-103](#).

432 (3) The Percent-for-Art Program created in Section [9-6-404](#).

433 (4) The LeRay McAllister Critical Land Conservation Program created in Section  
 434 [4-46-301](#).

435 (5) The Utah Lake Authority created in Section [11-65-201](#).

436 (6) Dedicated credits accrued to the Utah Marriage Commission as provided under  
 437 Subsection [17-16-21\(2\)\(d\)\(ii\)](#).

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

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

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

442 ~~[(10) Sanctions collected as dedicated credits from Medicaid providers under  
 443 Subsection [26-18-3\(7\)](#).]~~

444 ~~[(11) The Utah Health Care Workforce Financial Assistance Program created in  
 445 Section [26-46-102](#).]~~

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

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

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

449 ~~[(a) administration of the Utah Medical Education Program created in Section  
 450 [26-69-403](#).]~~

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

452 ~~[(c) provision of the forensic psychiatric fellowship grant described in Section  
 453 [26-69-408](#).]~~

454 (8) Sanctions collected as dedicated credits from Medicaid providers under Subsection  
 455 [26B-3-108\(7\)](#).

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

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

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

459 (12) The Utah Health Care Workforce Financial Assistance Program created in Section

- 460 [26B-4-702.](#)
- 461 (13) The Rural Physician Loan Repayment Program created in Section [26B-4-703.](#)
- 462 (14) The Utah Medical Education Council for the:
- 463 (a) administration of the Utah Medical Education Program created in Section
- 464 [26B-4-707;](#)
- 465 (b) provision of medical residency grants described in Section [26B-4-711](#); and
- 466 (c) provision of the forensic psychiatric fellowship grant described in Section
- 467 [26B-4-712.](#)
- 468 (15) The Division of Services for People with Disabilities, as provided in Section
- 469 [26B-6-402.](#)
- 470 [(15)] (16) Funds that the Department of Alcoholic Beverage Services retains in
- 471 accordance with Subsection [32B-2-301\(8\)\(a\)](#) or (b).
- 472 [(16)] (17) The General Assistance program administered by the Department of
- 473 Workforce Services, as provided in Section [35A-3-401.](#)
- 474 [(17)] (18) The Utah National Guard, created in Title 39, Militia and Armories.
- 475 [(18)] (19) The State Tax Commission under Section [41-1a-1201](#) for the:
- 476 (a) purchase and distribution of license plates and decals; and
- 477 (b) administration and enforcement of motor vehicle registration requirements.
- 478 [(19)] (20) The Search and Rescue Financial Assistance Program, as provided in
- 479 Section [53-2a-1102.](#)
- 480 [(20)] (21) The Motorcycle Rider Education Program, as provided in Section [53-3-905.](#)
- 481 [(21)] (22) The Utah Board of Higher Education for teacher preparation programs, as
- 482 provided in Section [53B-6-104.](#)
- 483 [(22)] (23) Innovation grants under Section [53G-10-608](#), except as provided in
- 484 Subsection [53G-10-608\(6\).](#)
- 485 [(23)] ~~The Division of Services for People with Disabilities, as provided in Section~~
- 486 [62A-5-102.](#)]
- 487 (24) The Division of Fleet Operations for the purpose of upgrading underground
- 488 storage tanks under Section [63A-9-401.](#)
- 489 (25) The Utah Seismic Safety Commission, as provided in Section [63C-6-104.](#)
- 490 (26) The Division of Technology Services for technology innovation as provided under



491 Section [63A-16-903](#).

492 (27) The Office of Administrative Rules for publishing, as provided in Section  
493 [63G-3-402](#).

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

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

498 (30) The Governor's Office of Economic Opportunity's Rural Employment Expansion  
499 Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

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

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

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

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

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

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

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

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

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

514 (40) Adoption document access as provided in Sections [78B-6-141](#), [78B-6-144](#), and  
515 [78B-6-144.5](#).

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

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

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

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

525 **63J-5-206. Intergovernmental transfers for Medicaid.**

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

529 (2) Notwithstanding Subsection (1), if a new intergovernmental transfer program  
530 created under Subsection [~~26-18-21(3)~~] [26B-3-130\(3\)](#) will result in the state receiving total  
531 payments of \$10,000,000 or more per year from the federal government, the intergovernmental  
532 transfer program is subject to the same review provisions as a high impact federal funds request  
533 in Subsections [63J-5-204\(3\)](#), (4), and (5).

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

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

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

542 **63J-7-102. Scope and applicability of chapter.**

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

546 (2) This chapter does not govern:

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

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

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

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

552 (e) a grant made to the state that is restricted only to "education" and that is deposited

553 into the Income Tax Fund or Uniform School Fund as free revenue;

554 (f) in-kind donations;

555 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state

556 when required by state law or application of state law;

557 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax

558 Contribution Act;

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

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

561 (k) a grant to the Heber Valley Historic Railroad Authority created in Section

562 [63H-4-102](#);

563 (l) a grant to the Utah State Railroad Museum Authority created in Section [63H-5-102](#);

564 (m) a grant to the Utah Housing Corporation created in Section [63H-8-201](#);

565 (n) a grant to the Utah State Fair Corporation created in Section [63H-6-103](#);

566 (o) a grant to the Utah State Retirement Office created in Section [49-11-201](#);

567 (p) a grant to the School and Institutional Trust Lands Administration created in

568 Section [53C-1-201](#);

569 (q) a grant to the Utah Communications Authority created in Section [63H-7a-201](#);

570 (r) a grant to the Medical Education Program created in Section [~~[26-69-403](#)~~]

571 [26B-4-707](#);

572 (s) a grant to the Utah Capital Investment Corporation created in Section [63N-6-301](#);

573 (t) a grant to the Utah Charter School Finance Authority created in Section [53G-5-602](#);

574 (u) a grant to the State Building Ownership Authority created in Section [63B-1-304](#); or

575 (v) a grant to the Military Installation Development Authority created in Section

576 [63H-1-201](#).

577 (3) An agency need not seek legislative review or approval of grants under Part 2,

578 Grant Approval Requirements, if:

579 (a) the governor has declared a state of emergency; and

580 (b) the grant is donated to the agency to assist victims of the state of emergency under

581 Subsection [53-2a-204](#)(1).

582 Section 6. Section **63M-7-204** is amended to read:

583 **63M-7-204. Duties of commission.**

- 584 (1) The State Commission on Criminal and Juvenile Justice administration shall:
- 585 (a) promote the commission's purposes as enumerated in Section [63M-7-201](#);
- 586 (b) promote the communication and coordination of all criminal and juvenile justice  
587 agencies;
- 588 (c) study, evaluate, and report on the status of crime in the state and on the  
589 effectiveness of criminal justice policies, procedures, and programs that are directed toward the  
590 reduction of crime in the state;
- 591 (d) study, evaluate, and report on programs initiated by state and local agencies to  
592 address reducing recidivism, including changes in penalties and sentencing guidelines intended  
593 to reduce recidivism, costs savings associated with the reduction in the number of inmates, and  
594 evaluation of expenses and resources needed to meet goals regarding the use of treatment as an  
595 alternative to incarceration, as resources allow;
- 596 (e) study, evaluate, and report on policies, procedures, and programs of other  
597 jurisdictions which have effectively reduced crime;
- 598 (f) identify and promote the implementation of specific policies and programs the  
599 commission determines will significantly reduce crime in Utah;
- 600 (g) provide analysis and recommendations on all criminal and juvenile justice  
601 legislation, state budget, and facility requests, including program and fiscal impact on all  
602 components of the criminal and juvenile justice system;
- 603 (h) provide analysis, accountability, recommendations, and supervision for state and  
604 federal criminal justice grant money;
- 605 (i) provide public information on the criminal and juvenile justice system and give  
606 technical assistance to agencies or local units of government on methods to promote public  
607 awareness;
- 608 (j) promote research and program evaluation as an integral part of the criminal and  
609 juvenile justice system;
- 610 (k) provide a comprehensive criminal justice plan annually;
- 611 (l) review agency forecasts regarding future demands on the criminal and juvenile  
612 justice systems, including specific projections for secure bed space;
- 613 (m) promote the development of criminal and juvenile justice information systems that  
614 are consistent with common standards for data storage and are capable of appropriately sharing

615 information with other criminal justice information systems by:

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

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

621 (iii) defining and developing state and local programs and projects associated with the  
622 improvement of information management for law enforcement and the administration of  
623 justice; and

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

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

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

631 (p) request, receive, and evaluate data and recommendations collected and reported by  
632 agencies and contractors related to policies recommended by the commission regarding  
633 recidivism reduction, including the data described in Section [13-53-111](#) and Subsection  
634 [~~62A-15-103(2)(f)~~] [26B-5-102\(2\)\(l\)](#);

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

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

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

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

645 (u) oversee the trauma-informed justice program described in Section [63M-7-209](#);

646 (v) request, receive, and evaluate the aggregate data collected from prosecutorial  
647 agencies and the Administrative Office of the Courts, in accordance with Sections [63M-7-216](#)  
648 and [78A-2-109.5](#);

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

651 (i) ensuring oversight and accountability;

652 (ii) supporting local corrections systems;

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

654 (iv) strengthening probation and parole supervision;

655 (x) compile a report of findings based on the data and recommendations provided

656 under Section [13-53-111](#) and Subsection [~~62A-15-103(2)(n)~~] [26B-5-102\(2\)\(n\)](#) that:

657 (i) separates the data provided under Section [13-53-111](#) by each residential, vocational  
658 and life skills program; and

659 (ii) separates the data provided under Subsection [~~62A-15-103(2)(n)~~] [26B-5-102\(2\)\(n\)](#)  
660 by each mental health or substance use treatment program; and

661 (y) publish the report described in Subsection (1)(x) on the commission's website and  
662 annually provide the report to the Judiciary Interim Committee, the Health and Human Services  
663 Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the  
664 related appropriations subcommittees.

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

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

670 **63M-7-209. Trauma-informed justice program.**

671 (1) As used in this section:

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

674 (b) "First responder" includes:

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

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

677 [26B-4-101](#); and

678 (iii) a firefighter.

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

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

683 (2) (a) The commission shall create a committee known as the Multi-Disciplinary  
684 Trauma-Informed Committee to assist the commission in meeting the requirements of this  
685 section. The commission shall provide for the membership, terms, and quorum requirements of  
686 the committee, except that:

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

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

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

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

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

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

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

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

706 (B) recommending what minimum qualifications a victim advocate must meet,  
707 including recommending trauma-informed training or trauma-informed continuing education

708 hours;

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

713 (A) peace officers that is consistent with the training developed under Section  
714 53-10-908;

715 (B) first responders;

716 (C) prosecutors;

717 (D) defense counsel;

718 (E) judges and other court personnel;

719 (F) the Board of Pardons and Parole and its personnel;

720 (G) the Department of Corrections, including Adult Probation and Parole; and  
721 (H) others involved in the state's criminal and juvenile justice system;

722 (iii) recommending outcome based metrics to measure achievement related to  
723 trauma-informed policies, procedures, programs, or practices in the criminal and juvenile  
724 justice system;

725 (iv) recommending minimum qualifications and continuing education of individuals  
726 providing training, consultation, or administrative supervisory consultation within the criminal  
727 and juvenile justice system regarding trauma-informed policies, procedures, programs, or  
728 practices;

729 (v) identifying needs that are not funded or that would benefit from additional  
730 resources;

731 (vi) identifying funding sources, including outlining the restrictions on the funding  
732 sources, that may fund trauma-informed policies, procedures, programs, or practices;

733 (vii) reviewing which governmental entities should have the authority to implement  
734 recommendations of the committee; and

735 (viii) reviewing the need, if any, for legislation or appropriations to meet budget needs.

736 (b) Whenever the commission conducts a related survey, the commission, when  
737 possible, shall include how victims and their family members interact with Utah's criminal and  
738 juvenile justice system, including whether the victims and family members are treated with



739 trauma-informed policies, procedures, programs, or practices throughout the criminal and  
740 juvenile justice system.

741 (4) The commission shall establish and administer a performance incentive grant  
742 program that allocates money appropriated by the Legislature to public or private entities:

743 (a) to provide advocacy and related service for victims in connection with the Board of  
744 Pardons and Parole process; and

745 (b) that have demonstrated experience and competency in the best practices and  
746 standards of trauma-informed care.

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

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

753 **63M-7-216. Prosecutorial data collection -- Policy transparency.**

754 (1) As used in this section:

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

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

759 (ii) "Criminal case" does not mean a case for criminal non-support under Section  
760 [76-7-201](#) or any proceeding involving collection or payment of child support, medical support,  
761 or child care expenses by or on behalf of the Office of Recovery Services under Section  
762 [~~62A-11-107~~] [26B-9-108](#) or [76-7-202](#).

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

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

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

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

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

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

776 (a) the defendant's:

777 (i) full name;

778 (ii) offense tracking number;

779 (iii) date of birth; and

780 (iv) zip code;

781 (b) referring agency;

782 (c) whether the prosecutorial agency filed charges, declined charges, initiated a  
783 pre-filing diversion, or asked the referring agency for additional information;

784 (d) if charges were filed, the case number and the court in which the charges were  
785 filed;

786 (e) all charges brought against the defendant;

787 (f) whether bail was requested and, if so, the requested amount;

788 (g) the date of initial discovery disclosure;

789 (h) whether post-filing diversion was offered and, if so, whether it was entered;

790 (i) if post-filing diversion or other plea agreement was accepted, the date entered by the  
791 court; and

792 (j) the date of conviction, acquittal, plea agreement, dismissal, or other disposition of  
793 the case.

794 (3) (a) The information required by Subsection (2), including information that was  
795 missing or incomplete at the time of an earlier submission but is presently available, shall be  
796 submitted within 90 days of the last day of March, June, September, and December of each  
797 year for the previous 90-day period in the form and manner selected by the commission.

798 (b) If the last day of the month is a Saturday, Sunday, or state holiday, the information  
799 shall be submitted on the next working day.

800 (4) The prosecutorial agency shall maintain a record of all information collected and

801 transmitted to the commission for 10 years.

802 (5) The commission shall include in the plan required by Subsection 63M-7-204(1)(k)  
803 an analysis of the data received, comparing and contrasting the practices and trends among and  
804 between prosecutorial agencies in the state. The Law Enforcement and Criminal Justice Interim  
805 Committee may request an in-depth analysis of the data received annually. Any request shall be  
806 in writing and specify which data points the report shall focus on.

807 (6) The commission may provide assistance to prosecutorial agencies in setting up a  
808 method of collecting and reporting data required by this section.

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

812 (a) screening and filing criminal charges;

813 (b) plea bargains;

814 (c) sentencing recommendations;

815 (d) discovery practices;

816 (e) prosecution of juveniles, including whether to prosecute a juvenile as an adult;

817 (f) collection of fines and fees;

818 (g) criminal and civil asset forfeiture practices;

819 (h) services available to victims of crime, both internal to the prosecutorial office and  
820 by referral to outside agencies;

821 (i) diversion programs; and

822 (j) restorative justice programs[~~;~~and].

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

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

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

831 **63M-7-301. Definitions -- Creation of council -- Membership -- Terms.**

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

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

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

837 (a) the attorney general or the attorney general's designee;

838 (b) one elected county official appointed by the Utah Association of Counties;

839 (c) the commissioner of public safety or the commissioner's designee;

840 (d) the director of the Division of Integrated Healthcare or the director's designee;

841 (e) the state superintendent of public instruction or the superintendent's designee;

842 (f) the executive director of the Department of Health and Human Services or the  
843 executive director's designee;

844 (g) the executive director of the Commission on Criminal and Juvenile Justice or the  
845 executive director's designee;

846 (h) the executive director of the Department of Corrections or the executive director's  
847 designee;

848 (i) the director of the Division of Juvenile Justice and Youth Services or the director's  
849 designee;

850 (j) the director of the Division of Child and Family Services or the director's designee;

851 (k) the chair of the Board of Pardons and Parole or the chair's designee;

852 (l) the director of the Office of Multicultural Affairs or the director's designee;

853 (m) the director of the Division of Indian Affairs or the director's designee;

854 (n) the state court administrator or the state court administrator's designee;

855 (o) one district court judge who presides over a drug court and who is appointed by the  
856 chief justice of the Utah Supreme Court;

857 (p) one district court judge who presides over a mental health court and who is  
858 appointed by the chief justice of the Utah Supreme Court;

859 (q) one juvenile court judge who presides over a drug court and who is appointed by  
860 the chief justice of the Utah Supreme Court;

861 (r) one prosecutor appointed by the Statewide Association of Prosecutors;

862 (s) the chair or co-chair of each committee established by the council;

863 (t) the chair or co-chair of the Statewide Suicide Prevention Coalition created under  
864 Subsection [~~62A-15-1101(2)~~] 26B-5-611(3);

865 (u) one representative appointed by the Utah League of Cities and Towns to serve a  
866 four-year term;

867 (v) the following members appointed by the governor to serve four-year terms:

868 (i) one resident of the state who has been personally affected by a substance use or  
869 mental health disorder; and

870 (ii) one citizen representative; and

871 (w) in addition to the voting members described in Subsections (2)(a) through (v), the  
872 following voting members appointed by a majority of the members described in Subsections  
873 (2)(a) through (v) to serve four-year terms:

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

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

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

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

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

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

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

884 (viii) one resident of the state who is a military servicemember or military veteran  
885 under Section 53B-8-102;

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

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

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

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

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

894 **63M-7-303. Duties of council.**

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

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

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

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

903 (d) promote collaboration and mutually beneficial public and private partnerships;

904 (e) coordinate recommendations made by any committee created under Section  
905 [63M-7-302](#);

906 (f) analyze and provide an objective assessment of all proposed legislation concerning  
907 substance use, mental health, and related issues;

908 (g) coordinate the implementation of Section [77-18-104](#) and related provisions in  
909 Subsections [77-18-103\(2\)\(c\)](#) and (d), as provided in Section [63M-7-305](#);

910 (h) comply with Sections [32B-2-306](#) and [~~62A-15-403~~] [26B-5-206](#); and

911 (i) oversee coordination for the funding, implementation, and evaluation of suicide  
912 prevention efforts described in Section [~~62A-15-1101~~] [26B-5-611](#).

913 (2) The council shall meet quarterly or more frequently as determined necessary by the  
914 chair.

915 (3) The council shall report the council's recommendations annually to the  
916 commission, governor, the Legislature, and the Judicial Council.

917 Section 11. Section **63M-13-202** is amended to read:

918 **63M-13-202. Duties of the commission.**

919 (1) The responsibilities of the commission include:

920 (a) supporting Utah parents and families, who have family members that are in early  
921 childhood, by providing comprehensive and accurate information regarding the availability of  
922 voluntary services that are available to children in early childhood from state agencies and  
923 other private and public entities;

924 (b) facilitating improved coordination between state agencies and community partners

925 that provide services to children in early childhood;

926 (c) sharing and analyzing information regarding early childhood issues in the state;

927 (d) developing and coordinating a comprehensive delivery system of services for

928 children in early childhood that addresses the following four areas:

929 (i) family support and safety;

930 (ii) health and development;

931 (iii) early learning; and

932 (iv) economic development; and

933 (e) identifying opportunities for and barriers to the alignment of standards, rules,

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

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

936 (a) directly engage with parents, families, community members, and public and private

937 service providers to identify and address:

938 (i) the quality, effectiveness, and availability of existing services for children in early

939 childhood and the coordination of those services;

940 (ii) gaps and barriers to entry in the provision of services for children in early

941 childhood; and

942 (iii) community-based solutions in improving the quality, effectiveness, and

943 availability of services for children in early childhood;

944 (b) seek regular and ongoing feedback from a wide range of entities and individuals

945 that use or provide services for children in early childhood, including entities and individuals

946 that use, represent, or provide services for any of the following:

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

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

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

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

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

952 (c) study, evaluate, and report on the status and effectiveness of policies, procedures,

953 and programs that provide services to children in early childhood;

954 (d) study and evaluate the effectiveness of policies, procedures, and programs

955 implemented by other states and nongovernmental entities that address the needs of children in

956 early childhood;

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

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

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

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

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

969 (j) develop strategies and monitor efforts concerning:

970 (i) increasing school readiness;

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

972 (iii) improving family and community engagement in early childhood education and  
973 development.

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

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

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

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

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

982 (a) shall be appointed by the commission;

983 (b) may include:

984 (i) members of the commission; and

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

986 (c) may not receive reimbursement or pay for work done in relation to the special



987 advisory group.

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

990 Section 12. Section **64-13-37** is amended to read:

991 **64-13-37. Department authorized to test offenders for communicable disease.**

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

993 (a) an illness due to a specific infectious agent or its toxic products, which arises  
994 through transmission of that agent or its products from a reservoir to a susceptible host either  
995 directly, as from an infected person or animal, or indirectly, through an intermediate plant or  
996 animal host, vector, or the inanimate environment; and

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

999 (2) The department may:

1000 (a) test an offender for a communicable disease upon admission or within a reasonable  
1001 time after admission to a correctional facility; and

1002 (b) periodically retest the offender for a communicable disease during the time the  
1003 offender is in the custody of the department.

1004 Section 13. Section **64-13-39** is amended to read:

1005 **64-13-39. Standards for health care facilities.**

1006 All health care facilities, as defined in Section [~~26-21-2~~] 26B-2-201, owned or operated  
1007 by the department shall apply for and meet the requirements for accreditation by the National  
1008 Commission for Correctional Health Care. The department shall begin the application process  
1009 in a timely manner to facilitate accreditation of the health care facilities of the department on or  
1010 before January 1, 1996. Inspections to ensure compliance and accreditation shall be conducted  
1011 by staff of the national commission.

1012 Section 14. Section **64-13-39.5** is amended to read:

1013 **64-13-39.5. Definitions -- Health care for chronically or terminally ill offenders --**  
1014 **Notice to health care facility.**

1015 (1) As used in this section:

1016 (a) "Department or agency" means the Utah Department of Corrections or a department  
1017 of corrections or government entity responsible for placing an offender in a facility located in

1018 Utah.

1019 (b) "Chronically ill" has the same meaning as in Section 31A-36-102.

1020 (c) "Facility" means an assisted living facility as defined in [~~Subsection 26-21-2(5)~~]

1021 Section 26B-2-201 and a nursing care facility as defined in [~~Subsection 26-21-2(17)~~] Section

1022 26B-2-201, except that transitional care units and other long term care beds owned or operated

1023 on the premises of acute care hospitals or critical care hospitals are not facilities for the purpose

1024 of this section.

1025 (d) "Offender" means an inmate whom the department or agency has given an early

1026 release, pardon, or parole due to a chronic or terminal illness.

1027 (e) "Terminally ill" has the same meaning as in Section 31A-36-102.

1028 (2) If an offender from Utah or any other state is admitted as a resident of a facility due

1029 to the chronic or terminal illness, the department or agency placing the offender shall:

1030 (a) provide written notice to the administrator of the facility no later than 15 days prior

1031 to the offender's admission as a resident of a facility, stating:

1032 (i) the offense for which the offender was convicted and a description of the actual

1033 offense;

1034 (ii) the offender's status with the department or agency;

1035 (iii) that the information provided by the department or agency regarding the offender

1036 shall be provided to employees of the facility no later than 10 days prior to the offender's

1037 admission to the facility; and

1038 (iv) the contact information for:

1039 (A) the offender's parole officer and also a point of contact within the department or

1040 agency, if the offender is on parole; and

1041 (B) a point of contact within the department or agency, if the offender is not under

1042 parole supervision but was given an early release or pardon due to a chronic or terminal illness;

1043 (b) make available to the public on the Utah Department of Corrections' website and

1044 upon request:

1045 (i) the name and address of the facility where the offender resides; and

1046 (ii) the date the offender was placed at the facility; and

1047 (c) provide a training program for employees who work in a facility where offenders

1048 reside, and if the offender is placed at the facility by:

1049 (i) the Utah Department of Corrections, the department shall provide the training  
1050 program for the employees; and

1051 (ii) by a department or agency from another state, that state's department or agency  
1052 shall arrange with the Utah Department of Corrections to provide the training required by this  
1053 Subsection (2), if training has not already been provided by the Utah Department of  
1054 Corrections, and shall provide to the Utah Department of Corrections any necessary  
1055 compensation for this service.

1056 (3) The administrator of the facility shall:

1057 (a) provide residents of the facility or their guardians notice that a convicted felon is  
1058 being admitted to the facility no later than 10 days prior to the offender's admission to the  
1059 facility;

1060 (b) advise potential residents or their guardians of persons under Subsection (2) who  
1061 are current residents of the facility; and

1062 (c) provide training, offered by the Utah Department of Corrections, in the safe  
1063 management of offenders for all employees.

1064 (4) The Utah Department of Corrections shall make rules under Title 63G, Chapter 3,  
1065 Utah Administrative Rulemaking Act, establishing:

1066 (a) a consistent format and procedure for providing notification to facilities and  
1067 information to the public in compliance with Subsection (2); and

1068 (b) a training program, in compliance with Subsection (3) for employees, who work at  
1069 facilities where offenders reside to ensure the safety of facility residents and employees.

1070 Section 15. Section **64-13-44** is amended to read:

1071 **64-13-44. Posthumous organ donations by inmates.**

1072 (1) As used in this section:

1073 (a) "Document of gift" [~~has the same meaning as in Section 26-28-102~~] means the  
1074 same as that term is defined in Section 26B-8-301.

1075 (b) "Sign" [~~has the same meaning as in Section 26-28-102~~] means the same as that  
1076 term is defined in Section 26B-8-301.

1077 (2) (a) The Utah Department of Corrections shall make available to each inmate a  
1078 document of gift form that allows an inmate to indicate the inmate's desire to make an  
1079 anatomical gift if the inmate dies while in the custody of the department.

1080 (b) If the inmate chooses to make an anatomical gift after death, the inmate shall  
1081 complete a document of gift in accordance with the requirements of [~~Title 26, Chapter 28,~~  
1082 ~~Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3, Revised Uniform  
1083 Anatomical Gift Act.

1084 (c) The department shall maintain a record of the document of gift that an inmate  
1085 provides to the department.

1086 (3) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
1087 Management Act, the department may, upon request, release to an organ procurement  
1088 organization, as defined in Section [~~26-28-102~~] 26B-8-301, the names and addresses of all  
1089 inmates who complete and sign the document of gift form indicating they intend to make an  
1090 anatomical gift.

1091 (4) The making of an anatomical gift by an inmate under this section shall comply with  
1092 [~~Title 26, Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3,  
1093 Revised Uniform Anatomical Gift Act.

1094 (5) Notwithstanding anything in this section, the department shall not be considered to  
1095 be an inmate's "guardian" for the purposes of [~~Title 26, Chapter 28, Revised Uniform~~  
1096 ~~Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act.

1097 Section 16. Section **67-3-1** is amended to read:

1098 **67-3-1. Functions and duties.**

1099 (1) (a) The state auditor is the auditor of public accounts and is independent of any  
1100 executive or administrative officers of the state.

1101 (b) The state auditor is not limited in the selection of personnel or in the determination  
1102 of the reasonable and necessary expenses of the state auditor's office.

1103 (2) The state auditor shall examine and certify annually in respect to each fiscal year,  
1104 financial statements showing:

1105 (a) the condition of the state's finances;

1106 (b) the revenues received or accrued;

1107 (c) expenditures paid or accrued;

1108 (d) the amount of unexpended or unencumbered balances of the appropriations to the  
1109 agencies, departments, divisions, commissions, and institutions; and

1110 (e) the cash balances of the funds in the custody of the state treasurer.

1111 (3) (a) The state auditor shall:

1112 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of

1113 any department of state government or any independent agency or public corporation as the law

1114 requires, as the auditor determines is necessary, or upon request of the governor or the

1115 Legislature;

1116 (ii) perform the audits in accordance with generally accepted auditing standards and

1117 other auditing procedures as promulgated by recognized authoritative bodies; and

1118 (iii) as the auditor determines is necessary, conduct the audits to determine:

1119 (A) honesty and integrity in fiscal affairs;

1120 (B) accuracy and reliability of financial statements;

1121 (C) effectiveness and adequacy of financial controls; and

1122 (D) compliance with the law.

1123 (b) If any state entity receives federal funding, the state auditor shall ensure that the

1124 audit is performed in accordance with federal audit requirements.

1125 (c) (i) The costs of the federal compliance portion of the audit may be paid from an

1126 appropriation to the state auditor from the General Fund.

1127 (ii) If an appropriation is not provided, or if the federal government does not

1128 specifically provide for payment of audit costs, the costs of the federal compliance portions of

1129 the audit shall be allocated on the basis of the percentage that each state entity's federal funding

1130 bears to the total federal funds received by the state.

1131 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit

1132 funds passed through the state to local governments and to reflect any reduction in audit time

1133 obtained through the use of internal auditors working under the direction of the state auditor.

1134 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to

1135 financial audits, and as the auditor determines is necessary, conduct performance and special

1136 purpose audits, examinations, and reviews of any entity that receives public funds, including a

1137 determination of any or all of the following:

1138 (i) the honesty and integrity of all the entity's fiscal affairs;

1139 (ii) whether the entity's administrators have faithfully complied with legislative intent;

1140 (iii) whether the entity's operations have been conducted in an efficient, effective, and

1141 cost-efficient manner;

1142 (iv) whether the entity's programs have been effective in accomplishing the intended  
1143 objectives; and

1144 (v) whether the entity's management, control, and information systems are adequate,  
1145 effective, and secure.

1146 (b) The auditor may not conduct performance and special purpose audits,  
1147 examinations, and reviews of any entity that receives public funds if the entity:

1148 (i) has an elected auditor; and

1149 (ii) has, within the entity's last budget year, had the entity's financial statements or  
1150 performance formally reviewed by another outside auditor.

1151 (5) The state auditor:

1152 (a) shall administer any oath or affirmation necessary to the performance of the duties  
1153 of the auditor's office; and

1154 (b) may:

1155 (i) subpoena witnesses and documents, whether electronic or otherwise; and

1156 (ii) examine into any matter that the auditor considers necessary.

1157 (6) The state auditor may require all persons who have had the disposition or  
1158 management of any property of this state or its political subdivisions to submit statements  
1159 regarding the property at the time and in the form that the auditor requires.

1160 (7) The state auditor shall:

1161 (a) except where otherwise provided by law, institute suits in Salt Lake County in  
1162 relation to the assessment, collection, and payment of revenues against:

1163 (i) persons who by any means have become entrusted with public money or property  
1164 and have failed to pay over or deliver the money or property; and

1165 (ii) all debtors of the state;

1166 (b) collect and pay into the state treasury all fees received by the state auditor;

1167 (c) perform the duties of a member of all boards of which the state auditor is a member  
1168 by the constitution or laws of the state, and any other duties that are prescribed by the  
1169 constitution and by law;

1170 (d) stop the payment of the salary of any state official or state employee who:

1171 (i) refuses to settle accounts or provide required statements about the custody and  
1172 disposition of public funds or other state property;

1173 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling  
1174 board or department head with respect to the manner of keeping prescribed accounts or funds;  
1175 or

1176 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the  
1177 official's or employee's attention;

1178 (e) establish accounting systems, methods, and forms for public accounts in all taxing  
1179 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

1180 (f) superintend the contractual auditing of all state accounts;

1181 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of  
1182 property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that  
1183 officials and employees in those taxing units comply with state laws and procedures in the  
1184 budgeting, expenditures, and financial reporting of public funds;

1185 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,  
1186 if necessary, to ensure that officials and employees in the county comply with Section  
1187 [59-2-303.1](#); and

1188 (i) withhold state allocated funds or the disbursement of property taxes from a local  
1189 government entity or a limited purpose entity, as those terms are defined in Section [67-1a-15](#) if  
1190 the state auditor finds the withholding necessary to ensure that the entity registers and  
1191 maintains the entity's registration with the lieutenant governor, in accordance with Section  
1192 [67-1a-15](#).

1193 (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds  
1194 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal  
1195 written notice of noncompliance from the auditor and has been given 60 days to make the  
1196 specified corrections.

1197 (b) If, after receiving notice under Subsection (8)(a), a state or independent local  
1198 fee-assessing unit that exclusively assesses fees has not made corrections to comply with state  
1199 laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the  
1200 state auditor:

1201 (i) shall provide a recommended timeline for corrective actions;

1202 (ii) may prohibit the state or local fee-assessing unit from accessing money held by the  
1203 state; and

1204 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an  
1205 account of a financial institution by filing an action in district court requesting an order of the  
1206 court to prohibit a financial institution from providing the fee-assessing unit access to an  
1207 account.

1208 (c) The state auditor shall remove a limitation on accessing funds under Subsection  
1209 (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and  
1210 financial reporting of public funds.

1211 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with  
1212 state law, the state auditor:

1213 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to  
1214 comply;

1215 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the  
1216 state; and

1217 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an  
1218 account of a financial institution by:

1219 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that  
1220 the institution prohibit access to the account; or

1221 (B) filing an action in district court requesting an order of the court to prohibit a  
1222 financial institution from providing the taxing or fee-assessing unit access to an account.

1223 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state  
1224 law, the state auditor shall eliminate a limitation on accessing funds described in Subsection  
1225 (8)(d).

1226 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has  
1227 received formal written notice of noncompliance from the auditor and has been given 60 days  
1228 to make the specified corrections.

1229 (10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state  
1230 auditor receives a notice of non-registration, as that term is defined in Section [67-1a-15](#).

1231 (b) If the state auditor receives a notice of non-registration, the state auditor may  
1232 prohibit the local government entity or limited purpose entity, as those terms are defined in  
1233 Section [67-1a-15](#), from accessing:

1234 (i) money held by the state; and



1235 (ii) money held in an account of a financial institution by:

1236 (A) contacting the entity's financial institution and requesting that the institution  
1237 prohibit access to the account; or

1238 (B) filing an action in district court requesting an order of the court to prohibit a  
1239 financial institution from providing the entity access to an account.

1240 (c) The state auditor shall remove the prohibition on accessing funds described in  
1241 Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in  
1242 Section 67-1a-15, from the lieutenant governor.

1243 (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the  
1244 state auditor:

1245 (a) shall authorize a disbursement by a local government entity or limited purpose  
1246 entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing  
1247 unit if the disbursement is necessary to:

1248 (i) avoid a major disruption in the operations of the local government entity, limited  
1249 purpose entity, or state or local taxing or fee-assessing unit; or

1250 (ii) meet debt service obligations; and

1251 (b) may authorize a disbursement by a local government entity, limited purpose entity,  
1252 or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

1253 (12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to  
1254 take temporary custody of public funds if an action is necessary to protect public funds from  
1255 being improperly diverted from their intended public purpose.

1256 (b) If the state auditor seeks relief under Subsection (12)(a):

1257 (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);  
1258 and

1259 (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a  
1260 court orders the public funds to be protected from improper diversion from their public  
1261 purpose.

1262 (13) The state auditor shall:

1263 (a) establish audit guidelines and procedures for audits of local mental health and  
1264 substance abuse authorities and their contract providers, conducted pursuant to Title 17,  
1265 Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local

1266 Mental Health Authorities, Title 26B, Chapter 5, Health Care -- Substance Use and Mental  
1267 Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal  
1268 Organizations, and Other Local Entities Act~~[, and Title 62A, Chapter 15, Substance Abuse and~~  
1269 ~~Mental Health Act]; and~~

1270 (b) ensure that those guidelines and procedures provide assurances to the state that:

1271 (i) state and federal funds appropriated to local mental health authorities are used for  
1272 mental health purposes;

1273 (ii) a private provider under an annual or otherwise ongoing contract to provide  
1274 comprehensive mental health programs or services for a local mental health authority is in  
1275 compliance with state and local contract requirements, and state and federal law;

1276 (iii) state and federal funds appropriated to local substance abuse authorities are used  
1277 for substance abuse programs and services; and

1278 (iv) a private provider under an annual or otherwise ongoing contract to provide  
1279 comprehensive substance abuse programs or services for a local substance abuse authority is in  
1280 compliance with state and local contract requirements, and state and federal law.

1281 (14) (a) The state auditor may, in accordance with the auditor's responsibilities for  
1282 political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from  
1283 Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or  
1284 investigations of any political subdivision that are necessary to determine honesty and integrity  
1285 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of  
1286 financial controls and compliance with the law.

1287 (b) If the state auditor receives notice under Subsection [11-41-104\(7\)](#) from the  
1288 Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may  
1289 initiate an audit or investigation of the public entity subject to the notice to determine  
1290 compliance with Section [11-41-103](#).

1291 (15) (a) The state auditor may not audit work that the state auditor performed before  
1292 becoming state auditor.

1293 (b) If the state auditor has previously been a responsible official in state government  
1294 whose work has not yet been audited, the Legislature shall:

1295 (i) designate how that work shall be audited; and

1296 (ii) provide additional funding for those audits, if necessary.

1297 (16) The state auditor shall:  
1298 (a) with the assistance, advice, and recommendations of an advisory committee  
1299 appointed by the state auditor from among local district boards of trustees, officers, and  
1300 employees and special service district boards, officers, and employees:  
1301 (i) prepare a Uniform Accounting Manual for Local Districts that:  
1302 (A) prescribes a uniform system of accounting and uniform budgeting and reporting  
1303 procedures for local districts under Title 17B, Limited Purpose Local Government Entities -  
1304 Local Districts, and special service districts under Title 17D, Chapter 1, Special Service  
1305 District Act;  
1306 (B) conforms with generally accepted accounting principles; and  
1307 (C) prescribes reasonable exceptions and modifications for smaller districts to the  
1308 uniform system of accounting, budgeting, and reporting;  
1309 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to  
1310 reflect generally accepted accounting principles;  
1311 (iii) conduct a continuing review and modification of procedures in order to improve  
1312 them;  
1313 (iv) prepare and supply each district with suitable budget and reporting forms; and  
1314 (v) (A) prepare instructional materials, conduct training programs, and render other  
1315 services considered necessary to assist local districts and special service districts in  
1316 implementing the uniform accounting, budgeting, and reporting procedures; and  
1317 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title  
1318 63G, Chapter 22, State Training and Certification Requirements; and  
1319 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices  
1320 and experiences of specific local districts and special service districts selected by the state  
1321 auditor and make the information available to all districts.  
1322 (17) (a) The following records in the custody or control of the state auditor are  
1323 protected records under Title 63G, Chapter 2, Government Records Access and Management  
1324 Act:  
1325 (i) records that would disclose information relating to allegations of personal  
1326 misconduct, gross mismanagement, or illegal activity of a past or present governmental  
1327 employee if the information or allegation cannot be corroborated by the state auditor through

1328 other documents or evidence, and the records relating to the allegation are not relied upon by  
1329 the state auditor in preparing a final audit report;

1330 (ii) records and audit workpapers to the extent the workpapers would disclose the  
1331 identity of an individual who during the course of an audit, communicated the existence of any  
1332 waste of public funds, property, or manpower, or a violation or suspected violation of a law,  
1333 rule, or regulation adopted under the laws of this state, a political subdivision of the state, or  
1334 any recognized entity of the United States, if the information was disclosed on the condition  
1335 that the identity of the individual be protected;

1336 (iii) before an audit is completed and the final audit report is released, records or drafts  
1337 circulated to an individual who is not an employee or head of a governmental entity for the  
1338 individual's response or information;

1339 (iv) records that would disclose an outline or part of any audit survey plans or audit  
1340 program; and

1341 (v) requests for audits, if disclosure would risk circumvention of an audit.

1342 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure  
1343 of records or information that relate to a violation of the law by a governmental entity or  
1344 employee to a government prosecutor or peace officer.

1345 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to  
1346 the state auditor to classify a document as public, private, controlled, or protected under Title  
1347 63G, Chapter 2, Government Records Access and Management Act.

1348 (d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the  
1349 state auditor and the subject of an audit performed by the state auditor as to whether the state  
1350 auditor may release a record, as defined in Section 63G-2-103, to the public that the state  
1351 auditor gained access to in the course of the state auditor's audit but which the subject of the  
1352 audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records  
1353 Access and Management Act.

1354 (ii) The state auditor may submit a record dispute to the State Records Committee,  
1355 created in Section 63G-2-501, for a determination of whether the state auditor may, in  
1356 conjunction with the state auditor's release of an audit report, release to the public the record  
1357 that is the subject of the record dispute.

1358 (iii) The state auditor or the subject of the audit may seek judicial review of a State

1359 Records Committee determination under Subsection (17)(d)(ii), as provided in Section  
1360 [63G-2-404](#).

1361 (18) If the state auditor conducts an audit of an entity that the state auditor has  
1362 previously audited and finds that the entity has not implemented a recommendation made by  
1363 the state auditor in a previous audit, the state auditor shall notify the Legislative Management  
1364 Committee through the Legislative Management Committee's audit subcommittee that the  
1365 entity has not implemented that recommendation.

1366 (19) The state auditor shall, with the advice and consent of the Senate, appoint the state  
1367 privacy officer described in Section [67-3-13](#).

1368 (20) The state auditor shall report, or ensure that another government entity reports, on  
1369 the financial, operational, and performance metrics for the state system of higher education and  
1370 the state system of public education, including metrics in relation to students, programs, and  
1371 schools within those systems.

1372 Section 17. Section **67-3-11** is amended to read:

1373 **67-3-11. Health care price transparency tool -- Transparency tool requirements.**

1374 (1) The state auditor shall create a health care price transparency tool:

1375 (a) subject to appropriations from the Legislature and any available funding from  
1376 third-party sources;

1377 (b) with technical support from the Public Employees' Benefit and Insurance Program  
1378 created in Section [49-20-103](#), the Department of Health and Human Services, and the  
1379 Insurance Department; and

1380 (c) in accordance with the requirements in Subsection (2).

1381 (2) A health care price transparency tool created by the state auditor under this section  
1382 shall:

1383 (a) present health care price information for consumers in a manner that is clear and  
1384 accurate;

1385 (b) be available to the public in a user-friendly manner;

1386 (c) incorporate existing data collected under Section [~~26-33a-106.1~~] [26B-8-504](#);

1387 (d) incorporate data collected under Section [~~26-61a-106~~] [26B-4-204](#), regarding fees  
1388 for qualified medical providers recommending medical cannabis, as those terms are defined in  
1389 Section [~~26-61a-102~~] [26B-4-201](#);

- 1390 (e) group billing codes for common health care procedures;  
1391 (f) be updated on a regular basis; and  
1392 (g) be created and operated in accordance with all applicable state and federal laws.
- 1393 (3) The state auditor may make the health care pricing data from the health care price  
1394 transparency tool available to the public through an application program interface format if the  
1395 data meets state and federal data privacy requirements.
- 1396 (4) (a) Before making a health care price transparency tool available to the public, the  
1397 state auditor shall:
- 1398 (i) seek input from the Health Data Committee created in Section [26B-1-204](#) on the  
1399 overall accuracy and effectiveness of the reports provided by the health care price transparency  
1400 tool; and
- 1401 (ii) establish procedures to give data providers a 30-day period to review pricing  
1402 information before the state auditor publishes the information on the health care price  
1403 transparency tool.
- 1404 (b) If the state auditor complies with the requirements of Subsection (4)(a), the health  
1405 care price transparency tool is not subject to the requirements of Section [~~26-33a-107~~]  
1406 [26B-8-506](#).
- 1407 (5) Each year in which a health care price transparency tool is operational, the state  
1408 auditor shall report to the Health and Human Services Interim Committee before November 1  
1409 of that year:
- 1410 (a) the utilization of the health care price transparency tool; and  
1411 (b) policy options for improving access to health care price transparency data.
- 1412 Section 18. Section **67-5-1** is amended to read:
- 1413 **67-5-1. General duties.**
- 1414 (1) The attorney general shall:
- 1415 (a) perform all duties in a manner consistent with the attorney-client relationship under  
1416 Section [67-5-17](#);
- 1417 (b) except as provided in Sections [10-3-928](#) and [17-18a-403](#), attend the Supreme Court  
1418 and the Court of Appeals of this state, and all courts of the United States, and prosecute or  
1419 defend all causes to which the state or any officer, board, or commission of the state in an  
1420 official capacity is a party, and take charge, as attorney, of all civil legal matters in which the

1421 state is interested;

1422 (c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of  
1423 process as necessary to execute the judgment;

1424 (d) account for, and pay over to the proper officer, all money that comes into the  
1425 attorney general's possession that belongs to the state;

1426 (e) keep a file of all cases in which the attorney general is required to appear, including  
1427 any documents and papers showing the court in which the cases have been instituted and tried,  
1428 and whether they are civil or criminal, and:

1429 (i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to  
1430 judgment, a memorandum of the judgment and of any process issued if satisfied, and if not  
1431 satisfied, documentation of the return of the sheriff;

1432 (ii) if criminal, the nature of the crime, the mode of prosecution, the stage of  
1433 proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the  
1434 execution, if the sentence has been executed, and, if not executed, the reason for the delay or  
1435 prevention; and

1436 (iii) deliver this information to the attorney general's successor in office;

1437 (f) exercise supervisory powers over the district and county attorneys of the state in all  
1438 matters pertaining to the duties of the district and county attorneys' offices, including the  
1439 authority described in Subsection (2);

1440 (g) give the attorney general's opinion in writing and without fee, when required, upon  
1441 any question of law relating to the office of the requester:

1442 (i) in accordance with Section [67-5-1.1](#), to the Legislature or either house;

1443 (ii) to any state officer, board, or commission; and

1444 (iii) to any county attorney or district attorney;

1445 (h) when required by the public service or directed by the governor, assist any county,  
1446 district, or city attorney in the discharge of county, district, or city attorney's duties;

1447 (i) purchase in the name of the state, under the direction of the state Board of  
1448 Examiners, any property offered for sale under execution issued upon judgments in favor of or  
1449 for the use of the state, and enter satisfaction in whole or in part of the judgments as the  
1450 consideration of the purchases;

1451 (j) when the property of a judgment debtor in any judgment mentioned in Subsection

1452 (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance  
1453 taking precedence of the judgment in favor of the state, redeem the property, under the  
1454 direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and  
1455 pay all money necessary for the redemption, upon the order of the state Board of Examiners,  
1456 out of any money appropriated for these purposes;

1457 (k) when in the attorney general's opinion it is necessary for the collection or  
1458 enforcement of any judgment, institute and prosecute on behalf of the state any action or  
1459 proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment  
1460 debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of  
1461 Examiners, out of any money not otherwise appropriated;

1462 (l) discharge the duties of a member of all official boards of which the attorney general  
1463 is or may be made a member by the Utah Constitution or by the laws of the state, and other  
1464 duties prescribed by law;

1465 (m) institute and prosecute proper proceedings in any court of the state or of the United  
1466 States to restrain and enjoin corporations organized under the laws of this or any other state or  
1467 territory from acting illegally or in excess of their corporate powers or contrary to public  
1468 policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and  
1469 wind up their affairs;

1470 (n) institute investigations for the recovery of all real or personal property that may  
1471 have escheated or should escheat to the state, and for that purpose, subpoena any persons  
1472 before any of the district courts to answer inquiries and render accounts concerning any  
1473 property, examine all books and papers of any corporations, and when any real or personal  
1474 property is discovered that should escheat to the state, institute suit in the district court of the  
1475 county where the property is situated for its recovery, and escheat that property to the state;

1476 (o) administer the Children's Justice Center as a program to be implemented in various  
1477 counties pursuant to Sections [67-5b-101](#) through [67-5b-107](#);

1478 (p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a,  
1479 Constitutional and Federalism Defense Act;

1480 (q) pursue any appropriate legal action to implement the state's public lands policy  
1481 established in Section [63C-4a-103](#);

1482 (r) investigate and prosecute violations of all applicable state laws relating to fraud in



1483 connection with the state Medicaid program and any other medical assistance program  
1484 administered by the state, including violations of [~~Title 26, Chapter 20, Utah False Claims Act~~]  
1485 Title 26B, Chapter 3, Part 11, Utah False Claims Act;

1486 (s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:

1487 (i) in health care facilities that receive payments under the state Medicaid program;

1488 (ii) in board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.

1489 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

1490 (iii) who are receiving medical assistance under the Medicaid program as defined in

1491 Section [~~26-18-2~~] 26B-3-101 in a noninstitutional or other setting;

1492 (t) (i) report at least twice per year to the Legislative Management Committee on any  
1493 pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

1494 (A) cost the state more than \$500,000; or

1495 (B) require the state to take legally binding action that would cost more than \$500,000  
1496 to implement; and

1497 (ii) if the meeting is closed, include an estimate of the state's potential financial or  
1498 other legal exposure in that report;

1499 (u) (i) submit a written report to the committees described in Subsection (1)(u)(ii) that  
1500 summarizes any lawsuit or decision in which a court or the Office of the Attorney General has  
1501 determined that a state statute is unconstitutional or unenforceable since the attorney general's  
1502 last report under this Subsection (1)(u), including any:

1503 (A) settlements reached;

1504 (B) consent decrees entered;

1505 (C) judgments issued;

1506 (D) preliminary injunctions issued;

1507 (E) temporary restraining orders issued; or

1508 (F) formal or informal policies of the Office of the Attorney General to not enforce a  
1509 law; and

1510 (ii) at least 30 days before the Legislature's May and November interim meetings,  
1511 submit the report described in Subsection (1)(u)(i) to:

1512 (A) the Legislative Management Committee;

1513 (B) the Judiciary Interim Committee; and

1514 (C) the Law Enforcement and Criminal Justice Interim Committee;

1515 (v) if the attorney general operates the Office of the Attorney General or any portion of

1516 the Office of the Attorney General as an internal service fund agency in accordance with

1517 Section 67-5-4, submit to the rate committee established in Section 67-5-34:

1518 (i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

1519 (ii) any other information or analysis requested by the rate committee;

1520 (w) before the end of each calendar year, create an annual performance report for the

1521 Office of the Attorney General and post the report on the attorney general's website;

1522 (x) ensure that any training required under this chapter complies with Title 63G,

1523 Chapter 22, State Training and Certification Requirements;

1524 (y) notify the legislative general counsel in writing within three business days after the

1525 day on which the attorney general is officially notified of a claim, regardless of whether the

1526 claim is filed in state or federal court, that challenges:

1527 (i) the constitutionality of a state statute;

1528 (ii) the validity of legislation; or

1529 (iii) any action of the Legislature; and

1530 (z) (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a

1531 special advisor to the Office of the Governor and the Office of the Attorney General in matters

1532 relating to Native American and tribal issues to:

1533 (A) establish outreach to the tribes and affected counties and communities; and

1534 (B) foster better relations and a cooperative framework; and

1535 (ii) annually report to the Executive Offices and Criminal Justice Appropriations

1536 Subcommittee regarding:

1537 (A) the status of the work of the special advisor described in Subsection (1)(z)(i); and

1538 (B) whether the need remains for the ongoing appropriation to fund the special advisor

1539 described in Subsection (1)(z)(i).

1540 (2) (a) The attorney general may require a district attorney or county attorney of the

1541 state to, upon request, report on the status of public business entrusted to the district or county

1542 attorney's charge.

1543 (b) The attorney general may review investigation results de novo and file criminal

1544 charges, if warranted, in any case involving a first degree felony, if:

1545 (i) a law enforcement agency submits investigation results to the county attorney or  
1546 district attorney of the jurisdiction where the incident occurred and the county attorney or  
1547 district attorney:

1548 (A) declines to file criminal charges; or

1549 (B) fails to screen the case for criminal charges within six months after the law  
1550 enforcement agency's submission of the investigation results; and

1551 (ii) after consultation with the county attorney or district attorney of the jurisdiction  
1552 where the incident occurred, the attorney general reasonably believes action by the attorney  
1553 general would not interfere with an ongoing investigation or prosecution by the county attorney  
1554 or district attorney of the jurisdiction where the incident occurred.

1555 (c) If the attorney general decides to conduct a review under Subsection (2)(b), the  
1556 district attorney, county attorney, and law enforcement agency shall, within 14 days after the  
1557 day on which the attorney general makes a request, provide the attorney general with:

1558 (i) all information relating to the investigation, including all reports, witness lists,  
1559 witness statements, and other documents created or collected in relation to the investigation;

1560 (ii) all recordings, photographs, and other physical or digital media created or collected  
1561 in relation to the investigation;

1562 (iii) access to all evidence gathered or collected in relation to the investigation; and

1563 (iv) the identification of, and access to, all officers or other persons who have  
1564 information relating to the investigation.

1565 (d) If a district attorney, county attorney, or law enforcement agency fails to timely  
1566 comply with Subsection (2)(c), the attorney general may seek a court order compelling  
1567 compliance.

1568 (e) If the attorney general seeks a court order under Subsection (2)(d), the court shall  
1569 grant the order unless the district attorney, county attorney, or law enforcement agency shows  
1570 good cause and a compelling interest for not complying with Subsection (2)(c).

1571 Section 19. Section **67-5-16** is amended to read:

1572 **67-5-16. Child protective services investigators within attorney general's office --**

1573 **Authority -- Training.**

1574 (1) The attorney general may employ, with the consent of the Division of Child and  
1575 Family Services within the Department of ~~[Human Services]~~ Health and Human Services, and

1576 in accordance with Section 80-2-703, child protective services investigators to investigate  
1577 alleged instances of abuse or neglect of a child that occur while a child is in the custody of the  
1578 Division of Child and Family Services. Those investigators may also investigate reports of  
1579 abuse or neglect of a child by an employee of the Department of [~~Human Services~~] Health and  
1580 Human Services, or involving a person or entity licensed to provide substitute care for children  
1581 in the custody of the Division of Child and Family Services.

1582 (2) Attorneys who represent the Division of Child and Family Services under Section  
1583 67-5-17, and child protective services investigators employed by the attorney general under  
1584 Subsection (1), shall be trained on and implement into practice the following items, in order of  
1585 preference and priority:

1586 (a) the priority of maintaining a child safely in the child's home, whenever possible;

1587 (b) the importance of:

1588 (i) kinship placement, in the event the child is removed from the home; and

1589 (ii) keeping sibling groups together, whenever practicable and in the best interests of  
1590 the children;

1591 (c) the preference for kinship adoption over nonkinship adoption, if the parent-child  
1592 relationship is legally terminated;

1593 (d) the potential for a guardianship placement if the parent-child relationship is legally  
1594 terminated and no appropriate adoption placement is available; and

1595 (e) the use of an individualized permanency goal, only as a last resort.

1596 Section 20. Section 67-20-2 is amended to read:

1597 **67-20-2. Definitions.**

1598 As used in this chapter:

1599 (1) "Agency" means:

1600 (a) a department, institution, office, college, university, authority, division, board,  
1601 bureau, commission, council, or other agency of the state;

1602 (b) a county, city, town, school district, or special improvement or taxing district; or

1603 (c) any other political subdivision.

1604 (2) "Compensatory service worker" means a person who performs a public service with  
1605 or without compensation for an agency as a condition or part of the person's:

1606 (a) incarceration;

- 1607 (b) plea;
- 1608 (c) sentence;
- 1609 (d) diversion;
- 1610 (e) probation; or
- 1611 (f) parole.
- 1612 (3) "Emergency medical service volunteer" means an individual who:
- 1613 (a) provides services as a volunteer under the supervision of a supervising agency or
- 1614 government officer; and
- 1615 (b) at the time the individual provides the services described in Subsection (3)(a), is:
- 1616 (i) an emergency medical technician volunteer, a paramedic volunteer, an ambulance
- 1617 volunteer, a volunteer firefighter, or another volunteer provider of emergency medical services;
- 1618 and
- 1619 (ii) acting in the capacity of a volunteer described in Subsection (3)(b)(i).
- 1620 (4) "IRS aggregate amount" means the fixed or determinable income aggregate amount
- 1621 described in 26 C.F.R. Sec. 1.6041-1(a)(1)(i)(A).
- 1622 (5) (a) "Volunteer" means an individual who donates service without pay or other
- 1623 compensation except the following, as approved by the supervising agency:
- 1624 (i) expenses actually and reasonably incurred;
- 1625 (ii) a stipend for future higher education expenses, awarded from the National Service
- 1626 Trust under 45 C.F.R. Secs. 2526.10 and 2527.10;
- 1627 (iii) a stipend, below the IRS aggregate amount, for:
- 1628 (A) emergency volunteers, including emergency medical service volunteers, volunteer
- 1629 safety officers, and volunteer search and rescue team members; or
- 1630 (B) non-emergency volunteers, including senior program volunteers and community
- 1631 event volunteers;
- 1632 (iv) (A) health benefits provided through the supervising agency; or
- 1633 (B) for a volunteer who participates in the Volunteer Emergency Medical Service
- 1634 Personnel Health Insurance Program described in Section [~~26-8a-603~~] [26B-4-136](#), health
- 1635 insurance provided through the program.
- 1636 (v) passthrough stipends or other compensation provided to volunteers through a
- 1637 federal or state program, including Americorp Seniors volunteers, consistent with 42 U.S.C.

1638 Sec. 5058;

1639 (vi) stipends or other compensation, below the IRS aggregate amount, provided to  
1640 volunteers from any person;

1641 (vii) uniforms, identification, personal protective equipment, or safety equipment used  
1642 by a volunteer only while volunteering for the supervising entity;

1643 (viii) a nonpecuniary item not exceeding \$50 in value;

1644 (ix) nonpecuniary items, below the IRS aggregate amount, donated to the supervising  
1645 agency with the express intent of benefitting a volunteer; or

1646 (x) meals or gifts, not exceeding \$50 in value, provided as part of a volunteers  
1647 appreciation event by the volunteering agency.

1648 (b) "Volunteer" does not include:

1649 (i) a person participating in human subjects research to the extent that the participation  
1650 is governed by federal law or regulation inconsistent with this chapter; or

1651 (ii) a compensatory service worker.

1652 (c) "Volunteer" includes a juror or potential juror appearing in response to a summons  
1653 for a trial jury or grand jury.

1654 (6) "Volunteer facilitator" means a business or nonprofit organization that, from  
1655 individuals who have a relationship with the business or nonprofit organization, such as  
1656 membership or employment, provides volunteers to an agency or facilitates volunteers  
1657 volunteering with an agency.

1658 (7) "Volunteer safety officer" means an individual who:

1659 (a) provides services as a volunteer under the supervision of an agency; and

1660 (b) at the time the individual provides the services to the supervising agency described  
1661 in Subsection (7)(a), the individual is:

1662 (i) exercising peace officer authority as provided in Section [53-13-102](#); or

1663 (ii) if the supervising agency described in Subsection (7)(a) is a fire department:

1664 (A) on the rolls of the supervising agency as a firefighter;

1665 (B) not regularly employed as a firefighter by the supervising agency; and

1666 (C) acting in a capacity that includes the responsibility for the extinguishment of fire.

1667 (8) "Volunteer search and rescue team member" means an individual who:

1668 (a) provides services as a volunteer under the supervision of a county sheriff; and

1669 (b) at the time the individual provides the services to the county sheriff described in  
1670 Subsection (8)(a), is:

- 1671 (i) certified as a member of the county sheriff's search and rescue team; and
- 1672 (ii) acting in the capacity of a member of the search and rescue team of the supervising  
1673 county sheriff.

1674 Section 21. Section 71-11-5 is amended to read:

1675 **71-11-5. Operation of homes -- Rulemaking authority -- Selection of**  
1676 **administrator.**

1677 (1) The department shall, subject to the approval of the executive director:

1678 (a) establish appropriate criteria for the admission and discharge of residents for each  
1679 home, subject to the requirements in Section 71-11-6 and criteria set by the United States  
1680 Department of Veterans Affairs;

1681 (b) establish a schedule of charges for each home in cases where residents have  
1682 available resources;

1683 (c) establish standards for the operation of the homes not inconsistent with standards  
1684 set by the United States Department of Veterans Affairs;

1685 (d) make rules to implement this chapter in accordance with Title 63G, Chapter 3, Utah  
1686 Administrative Rulemaking Act; and

1687 (e) ensure that the homes are licensed in accordance with [~~Title 26, Chapter 21, Health~~  
1688 ~~Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility  
1689 Licensing and Inspection, and 38 U.S.C. Sec. 1742(a).

1690 (2) The department shall, after reviewing recommendations of the board, appoint an  
1691 administrator for each home.

1692 Section 22. Section 72-6-107.5 is amended to read:

1693 **72-6-107.5. Construction of improvements of highway -- Contracts -- Health**  
1694 **insurance coverage.**

1695 (1) As used in this section:

1696 (a) "Aggregate" means the sum of all contracts, change orders, and modifications  
1697 related to a single project.

1698 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.

1699 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or

1700 "operative" who:

1701 (i) works at least 30 hours per calendar week; and

1702 (ii) meets employer eligibility waiting requirements for health care insurance, which  
1703 may not exceed the first day of the calendar month following 60 days after the day on which  
1704 the individual is hired.

1705 (d) "Health benefit plan" means:

1706 (i) the same as that term is defined in Section [31A-1-301](#); or

1707 (ii) an employee welfare benefit plan:

1708 (A) established under the Employee Retirement Income Security Act of 1974, 29  
1709 U.S.C. Sec. 1001 et seq.;

1710 (B) for an employer with 100 or more employees; and

1711 (C) in which the employer establishes a self-funded or partially self-funded group  
1712 health plan to provide medical care for the employer's employees and dependents of the  
1713 employees.

1714 (e) "Qualified health coverage" means the same as that term is defined in Section  
1715 ~~[26-40-115]~~ [26B-3-909](#).

1716 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).

1717 (g) "Third party administrator" or "administrator" means the same as that term is  
1718 defined in Section [31A-1-301](#).

1719 (2) Except as provided in Subsection (3), the requirements of this section apply to:

1720 (a) a contractor of a design or construction contract entered into by the department on  
1721 or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than  
1722 \$2,000,000; and

1723 (b) a subcontractor of a contractor of a design or construction contract entered into by  
1724 the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or  
1725 greater than \$1,000,000.

1726 (3) The requirements of this section do not apply to a contractor or subcontractor  
1727 described in Subsection (2) if:

1728 (a) the application of this section jeopardizes the receipt of federal funds;

1729 (b) the contract is a sole source contract; or

1730 (c) the contract is an emergency procurement.



1731 (4) A person that intentionally uses change orders, contract modifications, or multiple  
1732 contracts to circumvent the requirements of this section is guilty of an infraction.

1733 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the  
1734 department that the contractor has and will maintain an offer of qualified health coverage for  
1735 the contractor's employees and the employees' dependents during the duration of the contract  
1736 by submitting to the department a written statement that:

1737 (i) the contractor offers qualified health coverage that complies with Section  
1738 ~~[26-40-115]~~ [26B-3-909](#);

1739 (ii) is from:

1740 (A) an actuary selected by the contractor or the contractor's insurer;

1741 (B) an underwriter who is responsible for developing the employer group's premium  
1742 rates; or

1743 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),  
1744 an actuary or underwriter selected by a third party administrator; and

1745 (iii) was created within one year before the day on which the statement is submitted.

1746 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)  
1747 shall provide the actuary or underwriter selected by an administrator, as described in  
1748 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's  
1749 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the  
1750 requirements of qualified health coverage.

1751 (ii) A contractor may not make a change to the contractor's contribution to the health  
1752 benefit plan, unless the contractor provides notice to:

1753 (A) the actuary or underwriter selected by an administrator, as described in Subsection  
1754 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in  
1755 Subsection (5)(a) in compliance with this section; and

1756 (B) the department.

1757 (c) A contractor that is subject to the requirements of this section shall:

1758 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that  
1759 is subject to the requirements of this section shall obtain and maintain an offer of qualified  
1760 health coverage for the subcontractor's employees and the employees' dependents during the  
1761 duration of the subcontract; and

1762 (ii) obtain from a subcontractor that is subject to the requirements of this section a  
1763 written statement that:

1764 (A) the subcontractor offers qualified health coverage that complies with Section  
1765 ~~[26-40-115]~~ [26B-3-909](#);

1766 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an  
1767 underwriter who is responsible for developing the employer group's premium rates, or if the  
1768 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or  
1769 underwriter selected by an administrator; and

1770 (C) was created within one year before the day on which the contractor obtains the  
1771 statement.

1772 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage  
1773 described in Subsection (5)(a) during the duration of the contract is subject to penalties in  
1774 accordance with administrative rules adopted by the department under Subsection (6).

1775 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain  
1776 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

1777 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health  
1778 coverage described in Subsection (5)(c) during the duration of the subcontract is subject to  
1779 penalties in accordance with administrative rules adopted by the department under Subsection  
1780 (6).

1781 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain  
1782 an offer of qualified health coverage described in Subsection (5)(a).

1783 (6) The department shall adopt administrative rules:

1784 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1785 (b) in coordination with:

1786 (i) the Department of Environmental Quality in accordance with Section [19-1-206](#);

1787 (ii) the Department of Natural Resources in accordance with Section [79-2-404](#);

1788 (iii) the Division of Facilities Construction and Management in accordance with  
1789 Section [63A-5b-607](#);

1790 (iv) the State Capitol Preservation Board in accordance with Section [63C-9-403](#);

1791 (v) a public transit district in accordance with Section [17B-2a-818.5](#); and

1792 (vi) the Legislature's Administrative Rules Review and General Oversight Committee;

1793 and

1794 (c) that establish:

1795 (i) the requirements and procedures a contractor and a subcontractor shall follow to  
1796 demonstrate compliance with this section, including:

1797 (A) that a contractor or subcontractor's compliance with this section is subject to an  
1798 audit by the department or the Office of the Legislative Auditor General;

1799 (B) that a contractor that is subject to the requirements of this section shall obtain a  
1800 written statement described in Subsection (5)(a); and

1801 (C) that a subcontractor that is subject to the requirements of this section shall obtain a  
1802 written statement described in Subsection (5)(c)(ii);

1803 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally  
1804 violates the provisions of this section, which may include:

1805 (A) a three-month suspension of the contractor or subcontractor from entering into  
1806 future contracts with the state upon the first violation;

1807 (B) a six-month suspension of the contractor or subcontractor from entering into future  
1808 contracts with the state upon the second violation;

1809 (C) an action for debarment of the contractor or subcontractor in accordance with  
1810 Section [63G-6a-904](#) upon the third or subsequent violation; and

1811 (D) monetary penalties which may not exceed 50% of the amount necessary to  
1812 purchase qualified health coverage for an employee and a dependent of the employee of the  
1813 contractor or subcontractor who was not offered qualified health coverage during the duration  
1814 of the contract; and

1815 (iii) a website on which the department shall post the commercially equivalent  
1816 benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by  
1817 the Department of ~~Health~~ Health and Human Services, in accordance with Subsection  
1818 ~~[26-40-115(2)]~~ [26B-3-909\(2\)](#).

1819 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor  
1820 or subcontractor who intentionally violates the provisions of this section is liable to the  
1821 employee for health care costs that would have been covered by qualified health coverage.

1822 (ii) An employer has an affirmative defense to a cause of action under Subsection  
1823 (7)(a)(i) if:

1824 (A) the employer relied in good faith on a written statement described in Subsection  
1825 (5)(a) or (5)(c)(ii); or

1826 (B) the department determines that compliance with this section is not required under  
1827 the provisions of Subsection (3).

1828 (b) An employee has a private right of action only against the employee's employer to  
1829 enforce the provisions of this Subsection (7).

1830 (8) Any penalties imposed and collected under this section shall be deposited into the  
1831 Medicaid Restricted Account created in Section [~~26-18-402~~] [26B-1-309](#).

1832 (9) The failure of a contractor or subcontractor to provide qualified health coverage as  
1833 required by this section:

1834 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,  
1835 or contractor under:

1836 (i) Section [63G-6a-1602](#); or

1837 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

1838 (b) may not be used by the procurement entity or a prospective bidder, offeror, or  
1839 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design  
1840 or construction.

1841 (10) An administrator, including an administrator's actuary or underwriter, who  
1842 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health  
1843 coverage of a contractor or subcontractor who provides a health benefit plan described in  
1844 Subsection (1)(d)(ii):

1845 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,  
1846 unless the administrator commits gross negligence in preparing the written statement;

1847 (b) is not liable for any error in the written statement if the administrator relied in good  
1848 faith on information from the contractor or subcontractor; and

1849 (c) may require as a condition of providing the written statement that a contractor or  
1850 subcontractor hold the administrator harmless for an action arising under this section.

1851 Section 23. Section **72-9-103** is amended to read:

1852 **72-9-103. Rulemaking -- Motor vehicle liability coverage for certain motor**  
1853 **carriers -- Adjudicative proceedings.**

1854 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1855 department shall make rules:

1856 (a) adopting by reference in whole or in part the Federal Motor Carrier Safety

1857 Regulations including minimum security requirements for motor carriers;

1858 (b) specifying the equipment required to be carried in each tow truck, including limits

1859 on loads that may be moved based on equipment capacity and load weight; and

1860 (c) providing for the necessary administration and enforcement of this chapter.

1861 (2) (a) Notwithstanding Subsection (1)(a), the department shall not require a motor

1862 carrier to comply with 49 C.F.R. Part 387 Subpart B if the motor carrier is:

1863 (i) engaging in or transacting the business of transporting passengers by an intrastate

1864 commercial vehicle that has a seating capacity of no more than 30 passengers; and

1865 (ii) a licensed child care provider under Section ~~[26-39-401]~~ [26B-2-403](#).

1866 (b) Policies containing motor vehicle liability coverage for a motor carrier described

1867 under Subsection (2)(a) shall require minimum coverage of:

1868 (i) \$1,000,000 for a vehicle with a seating capacity of up to 20 passengers; or

1869 (ii) \$1,500,000 for a vehicle with a seating capacity of up to 30 passengers.

1870 (3) The department shall comply with Title 63G, Chapter 4, Administrative Procedures

1871 Act, in its adjudicative proceedings.

1872 Section 24. Section **72-10-502** is amended to read:

1873 **72-10-502. Implied consent to chemical tests for alcohol or drugs -- Number of**  
1874 **tests -- Refusal -- Person incapable of refusal -- Results of test available -- Who may give**  
1875 **test -- Evidence -- Immunity from liability.**

1876 (1) (a) A person operating an aircraft in this state consents to a chemical test or tests of  
1877 the person's breath, blood, urine, or oral fluids:

1878 (i) for the purpose of determining whether the person was operating or in actual

1879 physical control of an aircraft while having a blood or breath alcohol content statutorily

1880 prohibited under Section [72-10-501](#), or while under the influence of alcohol, any drug, or

1881 combination of alcohol and any drug under Section [72-10-501](#), if the test is or tests are

1882 administered at the direction of a peace officer having grounds to believe that person to have

1883 been operating or in actual physical control of an aircraft in violation of Section [72-10-501](#); or

1884 (ii) if the person operating the aircraft is involved in an accident that results in death,

1885 serious injury, or substantial aircraft damage.

1886 (b) (i) The peace officer determines which of the tests are administered and how many  
1887 of them are administered.

1888 (ii) The peace officer may order any or all tests of the person's breath, blood, urine, or  
1889 oral fluids.

1890 (iii) If an officer requests more than one test, refusal by a person to take one or more  
1891 requested tests, even though the person does submit to any other requested test or tests, is a  
1892 refusal under this section.

1893 (c) (i) A person who has been requested under this section to submit to a chemical test  
1894 or tests of the person's breath, blood, urine, or oral fluids may not select the test or tests to be  
1895 administered.

1896 (ii) The failure or inability of a peace officer to arrange for any specific chemical test is  
1897 not a defense to taking a test requested by a peace officer, and it is not a defense in any  
1898 criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the  
1899 requested test or tests.

1900 (2) (a) If the person has been placed under arrest and has then been requested by a  
1901 peace officer to submit to any one or more of the chemical tests provided in Subsection (1) and  
1902 refuses to submit to any chemical test, the person shall be warned by the peace officer  
1903 requesting the test that a refusal to submit to the test is admissible in civil or criminal  
1904 proceedings as provided under Subsection (8).

1905 (b) Following this warning, unless the person immediately requests that the chemical  
1906 test offered by a peace officer be administered, a test may not be given.

1907 (3) A person who is dead, unconscious, or in any other condition rendering the person  
1908 incapable of refusal to submit to any chemical test or tests is considered to not have withdrawn  
1909 the consent provided for in Subsection (1), and the test or tests may be administered whether  
1910 the person has been arrested or not.

1911 (4) Upon the request of the person who was tested, the results of the test or tests shall  
1912 be made available to that person.

1913 (5) (a) Only the following, acting at the request of a peace officer, may draw blood to  
1914 determine its alcohol or drug content:

1915 (i) a physician;

1916 (ii) a registered nurse;

1917 (iii) a licensed practical nurse;  
1918 (iv) a paramedic;  
1919 (v) as provided in Subsection (5)(b), emergency medical service personnel other than  
1920 paramedics; or

1921 (vi) a person with a valid permit issued by the Department of ~~[Health]~~ Health and  
1922 Human Services under Section ~~[26-1-30]~~ 26B-1-202.

1923 (b) The Department of ~~[Health]~~ Health and Human Services may designate by rule, in  
1924 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency  
1925 medical service personnel, as defined in Section ~~[26-8a-102]~~ 26B-4-101, are authorized to  
1926 draw blood under Subsection (5)(a)(v), based on the type of license under Section ~~[26-8a-302]~~  
1927 26B-4-116.

1928 (c) Subsection (5)(a) does not apply to taking a urine, breath, or oral fluid specimen.

1929 (d) The following are immune from civil or criminal liability arising from drawing a  
1930 blood sample from a person who a peace officer has reason to believe is flying in violation of  
1931 this chapter if the sample is drawn in accordance with standard medical practice:

1932 (i) a person authorized to draw blood under Subsection (5)(a); and

1933 (ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

1934 (6) (a) The person to be tested may, at the person's own expense, have a physician of  
1935 the person's own choice administer a chemical test in addition to the test or tests administered  
1936 at the direction of a peace officer.

1937 (b) The failure or inability to obtain the additional test does not affect admissibility of  
1938 the results of the test or tests taken at the direction of a peace officer, or preclude or delay the  
1939 test or tests to be taken at the direction of a peace officer.

1940 (c) The additional test shall be subsequent to the test or tests administered at the  
1941 direction of a peace officer.

1942 (7) For the purpose of determining whether to submit to a chemical test or tests, the  
1943 person to be tested does not have the right to consult an attorney or have an attorney, physician,  
1944 or other person present as a condition for the taking of any test.

1945 (8) If a person under arrest refuses to submit to a chemical test or tests or any  
1946 additional test under this section, evidence of any refusal is admissible in any civil or criminal  
1947 action or proceeding arising out of acts alleged to have been committed while the person was

1948 operating or in actual physical control of an aircraft while under the influence of alcohol, any  
1949 drug, or combination of alcohol and any drug.

1950 (9) The results of any test taken under this section or the refusal to be tested shall be  
1951 reported to the Federal Aviation Administration by the peace officer requesting the test.

1952 (10) Notwithstanding the provisions of this section, a blood test taken under this  
1953 section is subject to Section [77-23-213](#).

1954 Section 25. Section **75-1-107** is amended to read:

1955 **75-1-107. Evidence of death or status.**

1956 (1) In addition to the rules of evidence in courts of general jurisdiction, the following  
1957 rules relating to a determination of death and status apply:

1958 (a) Death occurs when an individual is determined to be dead as provided in [~~Title 26,~~  
1959 ~~Chapter 34, Uniform Determination of Death Act~~] [Section 26B-8-132](#).

1960 (b) A certified or authenticated copy of a death certificate purporting to be issued by an  
1961 official or agency of the place where the death purportedly occurred is prima facie evidence of  
1962 the fact, place, date, and time of death and the identity of the decedent.

1963 (c) A certified or authenticated copy of any record or report of a governmental agency,  
1964 domestic or foreign, that an individual is missing, detained, dead, or alive is prima facie  
1965 evidence of the status and of the dates, circumstances, and places disclosed by the record or  
1966 report.

1967 (d) In the absence of prima facie evidence of death under Subsection (1)(b) or (c), the  
1968 fact of death may be established by clear and convincing evidence, including circumstantial  
1969 evidence.

1970 (e) An individual whose death is not established under Subsection (1)(a), (b), (c) or (d)  
1971 who is absent for a continuous period of five years, during which the individual has not been  
1972 heard from, and whose absence is not satisfactorily explained after diligent search or inquiry, is  
1973 presumed to be dead. The individual's death is presumed to have occurred at the end of the  
1974 period unless there is sufficient evidence for determining that death occurred earlier.

1975 (f) In the absence of evidence disputing the time of death stated on a document  
1976 described in Subsection (1)(b) or (c), a document described in Subsection (1)(b) or (c) that  
1977 states a time of death 120 hours or more after the time of death of another individual, however  
1978 the time of death of the other individual is determined, establishes by clear and convincing



1979 evidence that the individual survived the other individual by 120 hours.

1980 (2) The right and duty to control the disposition of a deceased person shall be governed  
1981 by Sections 58-9-601 through 58-9-604.

1982 Section 26. Section 75-2a-103 is amended to read:

1983 **75-2a-103. Definitions.**

1984 As used in this chapter:

1985 (1) "Adult" means an individual who is:

1986 (a) at least 18 years [~~of age~~] old; or

1987 (b) an emancipated minor.

1988 (2) "Advance health care directive":

1989 (a) includes:

1990 (i) a designation of an agent to make health care decisions for an adult when the adult  
1991 cannot make or communicate health care decisions; or

1992 (ii) an expression of preferences about health care decisions;

1993 (b) may take one of the following forms:

1994 (i) a written document, voluntarily executed by an adult in accordance with the  
1995 requirements of this chapter; or

1996 (ii) a witnessed oral statement, made in accordance with the requirements of this  
1997 chapter; and

1998 (c) does not include a POLST order.

1999 (3) "Agent" means an adult designated in an advance health care directive to make  
2000 health care decisions for the declarant.

2001 (4) "APRN" means an individual who is:

2002 (a) certified or licensed as an advance practice registered nurse under Subsection  
2003 58-31b-301(2)(e);

2004 (b) an independent practitioner;

2005 (c) acting under a consultation and referral plan with a physician; and

2006 (d) acting within the scope of practice for that individual, as provided by law, rule, and  
2007 specialized certification and training in that individual's area of practice.

2008 (5) "Best interest" means that the benefits to the person resulting from a treatment  
2009 outweigh the burdens to the person resulting from the treatment, taking into account:

2010 (a) the effect of the treatment on the physical, emotional, and cognitive functions of the  
2011 person;

2012 (b) the degree of physical pain or discomfort caused to the person by the treatment or  
2013 the withholding or withdrawal of treatment;

2014 (c) the degree to which the person's medical condition, the treatment, or the  
2015 withholding or withdrawal of treatment, result in a severe and continuing impairment of the  
2016 dignity of the person by subjecting the person to humiliation and dependency;

2017 (d) the effect of the treatment on the life expectancy of the person;

2018 (e) the prognosis of the person for recovery with and without the treatment;

2019 (f) the risks, side effects, and benefits of the treatment, or the withholding or  
2020 withdrawal of treatment; and

2021 (g) the religious beliefs and basic values of the person receiving treatment, to the extent  
2022 these may assist the decision maker in determining the best interest.

2023 (6) "Capacity to appoint an agent" means that the adult understands the consequences  
2024 of appointing a particular person as agent.

2025 (7) "Declarant" means an adult who has completed and signed or directed the signing  
2026 of an advance health care directive.

2027 (8) "Default surrogate" means the adult who may make decisions for an individual  
2028 when either:

2029 (a) an agent or guardian has not been appointed; or

2030 (b) an agent is not able, available, or willing to make decisions for an adult.

2031 (9) "Emergency medical services provider" means a person that is licensed, designated,  
2032 or certified under [~~Title 26, Chapter 8a, Utah Emergency Medical Services System Act~~] Title  
2033 26B, Chapter 4, Part 1, Utah Emergency Medical Services System.

2034 (10) "Generally accepted health care standards":

2035 (a) is defined only for the purpose of:

2036 (i) this chapter and does not define the standard of care for any other purpose under  
2037 Utah law; and

2038 (ii) enabling health care providers to interpret the statutory form set forth in Section  
2039 [75-2a-117](#); and

2040 (b) means the standard of care that justifies a provider in declining to provide life

2041 sustaining care because the proposed life sustaining care:

2042 (i) will not prevent or reduce the deterioration in the health or functional status of an  
2043 individual;

2044 (ii) will not prevent the impending death of an individual; or

2045 (iii) will impose more burden on the individual than any expected benefit to the person.

2046 (11) "Health care" means any care, treatment, service, or procedure to improve,  
2047 maintain, diagnose, or otherwise affect an individual's physical or mental condition.

2048 (12) "Health care decision":

2049 (a) means a decision about an adult's health care made by, or on behalf of, an adult, that  
2050 is communicated to a health care provider;

2051 (b) includes:

2052 (i) selection and discharge of a health care provider and a health care facility;

2053 (ii) approval or disapproval of diagnostic tests, procedures, programs of medication,  
2054 and orders not to resuscitate; and

2055 (iii) directions to provide, withhold, or withdraw artificial nutrition and hydration and  
2056 all other forms of health care; and

2057 (c) does not include decisions about an adult's financial affairs or social interactions  
2058 other than as indirectly affected by the health care decision.

2059 (13) "Health care decision making capacity" means an adult's ability to make an  
2060 informed decision about receiving or refusing health care, including:

2061 (a) the ability to understand the nature, extent, or probable consequences of health  
2062 status and health care alternatives;

2063 (b) the ability to make a rational evaluation of the burdens, risks, benefits, and  
2064 alternatives of accepting or rejecting health care; and

2065 (c) the ability to communicate a decision.

2066 (14) "Health care facility" means:

2067 (a) a health care facility as defined in [~~Title 26, Chapter 21, Health Care Facility~~  
2068 ~~Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and  
2069 Inspection; and

2070 (b) private offices of physicians, dentists, and other health care providers licensed to  
2071 provide health care under Title 58, Occupations and Professions.

2072 (15) "Health care provider" means the same as that term is defined in Section  
2073 78B-3-403, except that "health care provider" does not include an emergency medical services  
2074 provider.

2075 (16) (a) "Life sustaining care" means any medical intervention, including procedures,  
2076 administration of medication, or use of a medical device, that maintains life by sustaining,  
2077 restoring, or supplanting a vital function.

2078 (b) "Life sustaining care" does not include care provided for the purpose of keeping an  
2079 individual comfortable.

2080 (17) "Minor" means an individual who:

2081 (a) is under 18 years old; and

2082 (b) is not an emancipated minor.

2083 (18) "Physician" means a physician and surgeon or osteopathic surgeon licensed under  
2084 Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical  
2085 Practice Act.

2086 (19) "Physician assistant" means an individual licensed as a physician assistant under  
2087 Title 58, Chapter 70a, Utah Physician Assistant Act.

2088 (20) "POLST order" means an order, on a form designated by the Department of  
2089 ~~[Health]~~ Health and Human Services under Section 75-2a-106, that gives direction to health  
2090 care providers, health care facilities, and emergency medical services providers regarding the  
2091 specific health care decisions of the individual to whom the order relates.

2092 (21) "Reasonably available" means:

2093 (a) readily able to be contacted without undue effort; and

2094 (b) willing and able to act in a timely manner considering the urgency of the  
2095 circumstances.

2096 (22) "Substituted judgment" means the standard to be applied by a surrogate when  
2097 making a health care decision for an adult who previously had the capacity to make health care  
2098 decisions, which requires the surrogate to consider:

2099 (a) specific preferences expressed by the adult:

2100 (i) when the adult had the capacity to make health care decisions; and

2101 (ii) at the time the decision is being made;

2102 (b) the surrogate's understanding of the adult's health care preferences;

2103 (c) the surrogate's understanding of what the adult would have wanted under the  
2104 circumstances; and

2105 (d) to the extent that the preferences described in Subsections (22)(a) through (c) are  
2106 unknown, the best interest of the adult.

2107 (23) "Surrogate" means a health care decision maker who is:

2108 (a) an appointed agent;

2109 (b) a default surrogate under the provisions of Section 75-2a-108; or

2110 (c) a guardian.

2111 Section 27. Section 75-2a-106 is amended to read:

2112 **75-2a-106. Emergency medical services -- POLST order.**

2113 (1) A POLST order may be created by or on behalf of a person as described in this  
2114 section.

2115 (2) A POLST order shall, in consultation with the person authorized to consent to the  
2116 order pursuant to this section, be prepared by:

2117 (a) the physician, APRN, or, subject to Subsection (11), physician assistant of the  
2118 person to whom the POLST order relates; or

2119 (b) a health care provider who:

2120 (i) is acting under the supervision of a person described in Subsection (2)(a); and

2121 (ii) is:

2122 (A) a nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;

2123 (B) a physician assistant, licensed under Title 58, Chapter 70a, Utah Physician  
2124 Assistant Act;

2125 (C) a mental health professional, licensed under Title 58, Chapter 60, Mental Health  
2126 Professional Practice Act; or

2127 (D) another health care provider, designated by rule as described in Subsection (10).

2128 (3) A POLST order shall be signed:

2129 (a) personally, by the physician, APRN, or, subject to Subsection (11), physician  
2130 assistant of the person to whom the POLST order relates; and

2131 (b) (i) if the person to whom the POLST order relates is an adult with health care  
2132 decision making capacity, by:

2133 (A) the person; or

- 2134 (B) an adult who is directed by the person to sign the POLST order on behalf of the  
2135 person;
- 2136 (ii) if the person to whom the POLST order relates is an adult who lacks health care  
2137 decision making capacity, by:
- 2138 (A) the surrogate with the highest priority under Section 75-2a-111;
- 2139 (B) the majority of the class of surrogates with the highest priority under Section  
2140 75-2a-111; or
- 2141 (C) a person directed to sign the POLST order by, and on behalf of, the persons  
2142 described in Subsection (3)(b)(ii)(A) or (B); or
- 2143 (iii) if the person to whom the POLST order relates is a minor, by a parent or guardian  
2144 of the minor.
- 2145 (4) If a POLST order relates to a minor and directs that life sustaining treatment be  
2146 withheld or withdrawn from the minor, the order shall include a certification by two physicians  
2147 that, in their clinical judgment, an order to withhold or withdraw life sustaining treatment is in  
2148 the best interest of the minor.
- 2149 (5) A POLST order:
- 2150 (a) shall be in writing, on a form designated by the Department of [~~Health~~] Health and  
2151 Human Services;
- 2152 (b) shall state the date on which the POLST order was made;
- 2153 (c) may specify the level of life sustaining care to be provided to the person to whom  
2154 the order relates; and
- 2155 (d) may direct that life sustaining care be withheld or withdrawn from the person to  
2156 whom the order relates.
- 2157 (6) A health care provider or emergency medical service provider, licensed or certified  
2158 under [~~Title 26, Chapter 8a, Utah Emergency Medical Services System Act~~] Title 26B, Chapter  
2159 4, Part 1, Utah Emergency Medical Services System, is immune from civil or criminal liability,  
2160 and is not subject to discipline for unprofessional conduct, for:
- 2161 (a) complying with a POLST order in good faith; or
- 2162 (b) providing life sustaining treatment to a person when a POLST order directs that the  
2163 life sustaining treatment be withheld or withdrawn.
- 2164 (7) To the extent that the provisions of a POLST order described in this section conflict

2165 with the provisions of an advance health care directive made under Section 75-2a-107, the  
2166 provisions of the POLST order take precedence.

2167 (8) An adult, or a parent or guardian of a minor, may revoke a POLST order by:

2168 (a) orally informing emergency service personnel;

2169 (b) writing "void" across the POLST order form;

2170 (c) burning, tearing, or otherwise destroying or defacing:

2171 (i) the POLST order form; or

2172 (ii) a bracelet or other evidence of the POLST order;

2173 (d) asking another adult to take the action described in this Subsection (8) on the  
2174 person's behalf;

2175 (e) signing or directing another adult to sign a written revocation on the person's  
2176 behalf;

2177 (f) stating, in the presence of an adult witness, that the person wishes to revoke the  
2178 order; or

2179 (g) completing a new POLST order.

2180 (9) (a) Except as provided in Subsection (9)(c), a surrogate for an adult who lacks  
2181 health care decision making capacity may only revoke a POLST order if the revocation is  
2182 consistent with the substituted judgment standard.

2183 (b) Except as provided in Subsection (9)(c), a surrogate who has authority under this  
2184 section to sign a POLST order may revoke a POLST order, in accordance with Subsection  
2185 (9)(a), by:

2186 (i) signing a written revocation of the POLST order; or

2187 (ii) completing and signing a new POLST order.

2188 (c) A surrogate may not revoke a POLST order during the period of time beginning  
2189 when an emergency service provider is contacted for assistance, and ending when the  
2190 emergency ends.

2191 (10) (a) The Department of ~~Health~~ Health and Human Services shall make rules, in  
2192 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

2193 (i) create the forms and systems described in this section; and

2194 (ii) develop uniform instructions for the form established in Section 75-2a-117.

2195 (b) The Department of ~~Health~~ Health and Human Services may make rules, in

2196 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to designate  
2197 health care professionals, in addition to those described in Subsection (2)(b)(ii), who may  
2198 prepare a POLST order.

2199 (c) The Department of [~~Health~~] Health and Human Services may assist others with  
2200 training of health care professionals regarding this chapter.

2201 (11) A physician assistant may not prepare or sign a POLST order, unless the physician  
2202 assistant is permitted to prepare or sign the POLST order under the physician assistant's  
2203 delegation of services agreement, as defined in Section [58-70a-102](#).

2204 (12) (a) Notwithstanding any other provision of this section:

2205 (i) the provisions of Title 46, Chapter 4, Uniform Electronic Transactions Act, apply to  
2206 any signature required on the POLST order; and

2207 (ii) a verbal confirmation satisfies the requirement for a signature from an individual  
2208 under Subsection (3)(b)(ii) or (iii), if:

2209 (A) requiring the individual described in Subsection (3)(b)(i)(B), (ii), or (iii) to sign the  
2210 POLST order in person or electronically would require significant difficulty or expense; and

2211 (B) a licensed health care provider witnesses the verbal confirmation and signs the  
2212 POLST order attesting that the health care provider witnessed the verbal confirmation.

2213 (b) The health care provider described in Subsection (12)(a)(ii)(B):

2214 (i) may not be the same individual who signs the POLST order under Subsection  
2215 (3)(a); and

2216 (ii) shall verify, in accordance with HIPAA as defined in Section [~~26-18-17~~]  
2217 [26B-3-126](#), the identity of the individual who is providing the verbal confirmation.

2218 Section 28. Section **75-3-104.5** is amended to read:

2219 **75-3-104.5. Notice to the Office of Recovery Services.**

2220 Within 30 days after the day on which a person files an application or a petition for  
2221 probate under this chapter for a decedent who was at least 55 years old, the court shall provide  
2222 notice of the application or petition to the Office of Recovery Services created in Section  
2223 [~~62A-1-105~~] [26B-9-103](#) for purposes of presentation or enforcement of a lien or claim under  
2224 Section [~~26-19-405~~] [26B-3-1013](#).

2225 Section 29. Section **75-3-803** is amended to read:

2226 **75-3-803. Limitations on presentation of claims.**



2227 (1) All claims against a decedent's estate which arose before the death of the decedent,  
2228 including claims of the state and any subdivision of it, whether due or to become due, absolute  
2229 or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not  
2230 barred earlier by other statute of limitations, are barred against the estate, the personal  
2231 representative, and the heirs and devisees of the decedent, unless presented within the earlier of  
2232 the following dates:

2233 (a) one year after the decedent's death; or

2234 (b) within the time provided by Subsection 75-3-801(2) for creditors who are given  
2235 actual notice, and where notice is published, within the time provided in Subsection  
2236 75-3-801(1) for all claims barred by publication.

2237 (2) In all events, claims barred by the nonclaim statute at the decedent's domicile are  
2238 also barred in this state.

2239 (3) All claims against a decedent's estate which arise at or after the death of the  
2240 decedent, including claims of the state and any of its subdivisions, whether due or to become  
2241 due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal  
2242 basis are barred against the estate, the personal representative, and the heirs and devisees of the  
2243 decedent, unless presented as follows:

2244 (a) a claim based on a contract with the personal representative within three months  
2245 after performance by the personal representative is due; or

2246 (b) any other claim within the later of three months after it arises, or the time specified  
2247 in Subsection (1)(a).

2248 (4) Nothing in this section affects or prevents:

2249 (a) any proceeding to enforce any mortgage, pledge, or other lien upon property of the  
2250 estate;

2251 (b) to the limits of the insurance protection only, any proceeding to establish liability of  
2252 the decedent or the personal representative for which the decedent or the personal  
2253 representative is protected by liability insurance;

2254 (c) collection of compensation for services rendered and reimbursement for expenses  
2255 advanced by the personal representative or by the attorney or accountant for the personal  
2256 representative of the estate; or

2257 (d) medical assistance recovery under [~~Title 26, Chapter 19, Medical Benefits~~

2258 ~~Recovery Act~~] Title 26B, Chapter 3, Part 10, Medical Benefits Recovery.

2259 (5) If a personal representative has not been timely appointed in accordance with this  
2260 chapter, one may be appointed for the limited purposes of Subsection (4)(b) for any claim  
2261 timely brought against the decedent.

2262 Section 30. Section **75-3-805** is amended to read:

2263 **75-3-805. Classification of claims.**

2264 (1) If the applicable assets of the estate are insufficient to pay all claims in full, the  
2265 personal representative shall make payment in the following order:

2266 (a) reasonable funeral expenses;

2267 (b) costs and expenses of administration;

2268 (c) debts and taxes with preference under federal law;

2269 (d) reasonable and necessary medical and hospital expenses of the last illness of the  
2270 decedent, including compensation of persons attending the decedent, and medical assistance if

2271 Section ~~[26-19-405]~~ 26B-3-1013 applies;

2272 (e) debts and taxes with preference under other laws of this state; and

2273 (f) all other claims.

2274 (2) No preference shall be given in the payment of any claim over any other claim of  
2275 the same class, and a claim due and payable shall not be entitled to a preference over claims not  
2276 due.

2277 Section 31. Section **75-5-309** is amended to read:

2278 **75-5-309. Notices in guardianship proceedings.**

2279 (1) In a proceeding for the appointment or removal of a guardian of an incapacitated  
2280 person other than the appointment of an emergency guardian or temporary suspension of a  
2281 guardian, notice of hearing shall be given to each of the following:

2282 (a) the ward or the person alleged to be incapacitated and spouse, parents, and adult  
2283 children of the ward or person;

2284 (b) any person who is serving as guardian or conservator or who has care and custody  
2285 of the ward or person;

2286 (c) in case no other person is notified under Subsection (1)(a), at least one of the  
2287 closest adult relatives, if any can be found;

2288 (d) any guardian appointed by the will of the parent who died later or spouse of the

2289 incapacitated person; and

2290 (e) Adult Protective Services if Adult Protective Services has received a referral under  
2291 [~~Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult~~] Title  
2292 26B, Chapter 6, Part 2, Abuse, Neglect, or Exploitation of a Vulnerable Adult, concerning the  
2293 welfare of the ward or person alleged to be incapacitated or concerning the guardian or  
2294 conservator or proposed guardian or conservator.

2295 (2) The notice shall be in plain language and large type and the form shall have the  
2296 final approval of the Judicial Council. The notice shall indicate the time and place of the  
2297 hearing, the possible adverse consequences to the person receiving notice of rights, a list of  
2298 rights, including the person's own or a court appointed counsel, and a copy of the petition.

2299 (3) Notice shall be served personally on the alleged incapacitated person and the  
2300 person's spouse and parents if they can be found within the state. Notice to the spouse and  
2301 parents, if they cannot be found within the state, and to all other persons except the alleged  
2302 incapacitated person shall be given as provided in Section 75-1-401. Waiver of notice by the  
2303 person alleged to be incapacitated is not effective unless the person attends the hearing or the  
2304 person's waiver of notice is confirmed in an interview with the visitor appointed pursuant to  
2305 Section 75-5-303.

2306 Section 32. Section 75-5-311 is amended to read:

2307 **75-5-311. Who may be guardian -- Priorities.**

2308 (1) As used in this section:

2309 (a) "Specialized care professional" means a person who is certified as a National  
2310 Certified Guardian or National Master Guardian by the Center for Guardianship Certification  
2311 or similar organization.

2312 (b) "Suitable institution" means any nonprofit or for profit corporation, partnership,  
2313 sole proprietorship, or other type of business organization that is owned, operated by, or  
2314 employs a specialized care professional.

2315 (2) The court shall appoint a guardian in accordance with the incapacitated person's  
2316 most recent nomination, unless that person is disqualified or the court finds other good cause  
2317 why the person should not serve as guardian. That nomination shall have been made prior to  
2318 the person's incapacity, shall be in writing and shall be signed by the person making the  
2319 nomination. The nomination shall be in substantially the following form:

2320 Nomination of Guardian by an Adult

2321 I, (Name), being of sound mind and not acting under duress, fraud, or other undue  
2322 influence, do hereby nominate (Name, current residence, and relationship, if any, of the  
2323 nominee) to serve as my guardian in the event that after the date of this instrument I become  
2324 incapacitated.

2325 Executed at \_\_\_\_\_ (city, state)

2326 on this \_\_\_\_\_ day of \_\_\_\_\_

2327 \_\_\_\_\_

2328 (Signature)

2329 (3) Except as provided in Subsection (2), persons who are not disqualified have  
2330 priority for appointment as guardian in the following order:

2331 (a) a person who has been nominated by the incapacitated person, by any means other  
2332 than that described in Subsection (2), if the incapacitated person was 14 years [~~of age~~] old or  
2333 older when the nomination was executed and, in the opinion of the court, that person acted  
2334 with sufficient mental capacity to make the nomination;

2335 (b) the spouse of the incapacitated person;

2336 (c) an adult child of the incapacitated person;

2337 (d) a parent of the incapacitated person, including a person nominated by will, written  
2338 instrument, or other writing signed by a deceased parent;

2339 (e) any relative of the incapacitated person with whom he has resided for more than six  
2340 months prior to the filing of the petition;

2341 (f) a person nominated by the person who is caring for him or paying benefits to him;

2342 (g) a specialized care professional, so long as the specialized care professional does  
2343 not:

2344 (i) profit financially or otherwise from or receive compensation for acting in that  
2345 capacity, except for the direct costs of providing guardianship or conservatorship services; or

2346 (ii) otherwise have a conflict of interest in providing those services;

2347 (h) any competent person or suitable institution; or

2348 (i) the Office of Public Guardian under [~~Title 62A, Chapter 14, Office of Public~~  
2349 ~~Guardian Act~~] Title 26B, Chapter 6, Part 3, Office of Public Guardian.

2350 Section 33. Section **75-7-508** is amended to read:

2351           **75-7-508. Notice to creditors.**

2352           (1) (a) A trustee for an inter vivos revocable trust, upon the death of the settlor, may  
2353 publish a notice to creditors:

2354           (i) once a week for three successive weeks in a newspaper of general circulation in the  
2355 county where the settlor resided at the time of death; and

2356           (ii) in accordance with Section [45-1-101](#) for three weeks.

2357           (b) The notice required by Subsection (1)(a) shall:

2358           (i) provide the trustee's name and address; and

2359           (ii) notify creditors:

2360           (A) of the deceased settlor; and

2361           (B) to present their claims within three months after the date of the first publication of  
2362 the notice or be forever barred from presenting the claim.

2363           (2) A trustee shall give written notice by mail or other delivery to any known creditor  
2364 of the deceased settlor, notifying the creditor to present the creditor's claim within 90 days from  
2365 the published notice if given as provided in Subsection (1) or within 60 days from the mailing  
2366 or other delivery of the notice, whichever is later, or be forever barred. Written notice shall be  
2367 the notice described in Subsection (1) or a similar notice.

2368           (3) (a) If the deceased settlor received medical assistance, as defined in Section  
2369 ~~[26-19-102]~~ [26B-3-1001](#), at any time after the age of 55, the trustee for an inter vivos revocable  
2370 trust, upon the death of the settlor, shall mail or deliver written notice to the Director of the  
2371 Office of Recovery Services, on behalf of the Department of ~~[Health]~~ Health and Human  
2372 Services, to present any claim under Section ~~[26-19-405]~~ [26B-3-1013](#) within 60 days from the  
2373 mailing or other delivery of notice, whichever is later, or be forever barred.

2374           (b) If the trustee does not mail notice to the director of the Office of Recovery Services  
2375 on behalf of the department in accordance with Subsection (3)(a), the department shall have  
2376 one year from the death of the settlor to present its claim.

2377           (4) The trustee is not liable to any creditor or to any successor of the deceased settlor  
2378 for giving or failing to give notice under this section.

2379           (5) The notice to creditors shall be valid against any creditor of the trust and also  
2380 against any creditor of the estate of the deceased settlor.

2381           Section 34. Section **75-7-509** is amended to read:

2382 **75-7-509. Limitations on presentation of claims.**

2383 (1) All claims against a deceased settlor which arose before the death of the deceased  
2384 settlor, whether due or to become due, absolute or contingent, liquidated or unliquidated,  
2385 founded on contract, tort, or other legal basis, if not barred earlier by other statute of  
2386 limitations, are barred against the deceased settlor's estate, the trustee, the trust estate, and the  
2387 beneficiaries of the deceased settlor's trust, unless presented within the earlier of the following:

2388 (a) one year after the settlor's death; or

2389 (b) the time provided by Subsection 75-7-508(2) or (3) for creditors who are given  
2390 actual notice, and where notice is published, within the time provided in Subsection  
2391 75-7-508(1) for all claims barred by publication.

2392 (2) In all events, claims barred by the nonclaim statute at the deceased settlor's  
2393 domicile are also barred in this state.

2394 (3) All claims against a deceased settlor's estate or trust estate which arise at or after  
2395 the death of the settlor, whether due or to become due, absolute or contingent, liquidated or  
2396 unliquidated, founded on contract, tort, or other legal basis are barred against the deceased  
2397 settlor's estate, the trustee, the trust estate, and the beneficiaries of the deceased settlor, unless  
2398 presented as follows:

2399 (a) a claim based on a contract with the trustee within three months after performance  
2400 by the trustee is due; or

2401 (b) any other claim within the later of three months after it arises, or the time specified  
2402 in Subsection (1).

2403 (4) Nothing in this section affects or prevents:

2404 (a) any proceeding to enforce any mortgage, pledge, or other lien upon property of the  
2405 deceased settlor's estate or the trust estate;

2406 (b) to the limits of the insurance protection only, any proceeding to establish liability of  
2407 the deceased settlor or the trustee for which he is protected by liability insurance;

2408 (c) collection of compensation for services rendered and reimbursement for expenses  
2409 advanced by the trustee or by the attorney or accountant for the trustee of the trust estate; or

2410 (d) the right to recover medical assistance provided to the settlor under [Title 26,

2411 ~~Chapter 19, Medical Benefits Recovery Act~~ Title 26B, Chapter 3, Part 10, Medical Benefits

2412 Recovery.

2413 Section 35. Section **75-7-511** is amended to read:

2414 **75-7-511. Classification of claims.**

2415 (1) If the applicable assets of the deceased settlor's estate or trust estate are insufficient  
2416 to pay all claims in full, the trustee shall make payment in the following order:

2417 (a) reasonable funeral expenses;

2418 (b) costs and expenses of administration;

2419 (c) debts and taxes with preference under federal law;

2420 (d) reasonable and necessary medical and hospital expenses of the last illness of the  
2421 deceased settlor, including compensation of persons attending the deceased settlor, and medical  
2422 assistance if Section [~~26-19-405~~] [26B-3-1013](#) applies;

2423 (e) debts and taxes with preference under other laws of this state; and

2424 (f) all other claims.

2425 (2) No preference shall be given in the payment of any claim over any other claim of  
2426 the same class, and a claim due and payable shall not be entitled to a preference over claims not  
2427 due.

2428 Section 36. Section **76-3-203.11** is amended to read:

2429 **76-3-203.11. Reporting an overdose -- Mitigating factor.**

2430 It is a mitigating factor in sentencing for an offense under Title 58, Chapter 37, Utah  
2431 Controlled Substances Act, that the person or bystander:

2432 (1) reasonably believes that the person or another person is experiencing an overdose  
2433 event due to the ingestion, injection, inhalation, or other introduction into the human body of a  
2434 controlled substance or other substance;

2435 (2) reports, or assists a person who reports, in good faith the overdose event to a  
2436 medical provider, an emergency medical service provider as defined in Section [~~26-8a-102~~]  
2437 [26B-4-101](#), a law enforcement officer, a 911 emergency call system, or an emergency dispatch  
2438 system, or the person is the subject of a report made under this section;

2439 (3) provides in the report under Subsection (2) a functional description of the location  
2440 of the actual overdose event that facilitates responding to the person experiencing the overdose  
2441 event;

2442 (4) remains at the location of the person experiencing the overdose event until a  
2443 responding law enforcement officer or emergency medical service provider arrives, or remains

2444 at the medical care facility where the person experiencing an overdose event is located until a  
2445 responding law enforcement officer arrives;

2446 (5) cooperates with the responding medical provider, emergency medical service  
2447 provider, and law enforcement officer, including providing information regarding the person  
2448 experiencing the overdose event and any substances the person may have injected, inhaled, or  
2449 otherwise introduced into the person's body; and

2450 (6) committed the offense in the same course of events from which the reported  
2451 overdose arose.

2452 Section 37. Section **76-5-102.6** is amended to read:

2453 **76-5-102.6. Propelling object or substance at a correctional or peace officer --**  
2454 **Penalties.**

2455 (1) (a) As used in this section, "infectious agent" means the same as that term is  
2456 defined in Section [~~26-6-2~~] [26B-7-201](#).

2457 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

2458 (2) An actor commits the offense of propelling an object or substance at a correctional  
2459 or peace officer if the actor:

2460 (a) is a prisoner or a detained individual; and

2461 (b) throws or otherwise propels an object or substance at a peace officer, a correctional  
2462 officer, or an employee or volunteer, including a health care provider.

2463 (3) (a) A violation of Subsection (2) is a class A misdemeanor.

2464 (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree  
2465 felony if:

2466 (i) the object or substance causes substantial bodily injury to the peace officer, the  
2467 correctional officer, or the employee or volunteer, including a health care provider; or

2468 (ii) (A) the object or substance is:

2469 (I) blood, urine, semen, or fecal material;

2470 (II) an infectious agent or a material that carries an infectious agent;

2471 (III) vomit or a material that carries vomit; or

2472 (IV) the actor's saliva, and the actor knows the actor is infected with HIV, hepatitis B,  
2473 or hepatitis C; and

2474 (B) the object or substance comes into contact with any portion of the officer's,



2475 employee's, volunteer's, or health care provider's face, including the eyes or mouth, or comes  
2476 into contact with any open wound on the officer's, employee's, volunteer's, or health care  
2477 provider's body.

2478 (4) If an offense committed under this section amounts to an offense subject to a  
2479 greater penalty under another provision of state law than under this section, this section does  
2480 not prohibit prosecution and sentencing for the more serious offense.

2481 Section 38. Section **76-5-102.7** is amended to read:

2482 **76-5-102.7. Assault or threat of violence against health care provider, emergency**  
2483 **medical service worker, or health facility employee, owner, or contractor -- Penalty.**

2484 (1) (a) As used in this section:

2485 (i) "Assault" means an offense under Section [76-5-102](#).

2486 (ii) "Emergency medical service worker" means an individual licensed under Section  
2487 ~~[26-8a-302]~~ [26B-4-116](#).

2488 (iii) "Health care provider" means the same as that term is defined in Section  
2489 [78B-3-403](#).

2490 (iv) "Health facility" means:

2491 (A) a health care facility as defined in Section ~~[26-21-2]~~ [26B-2-201](#); and

2492 (B) the office of a private health care provider, whether for individual or group  
2493 practice.

2494 (v) "Health facility employee" means an employee, owner, or contractor of a health  
2495 facility.

2496 (vi) "Threat of violence" means an offense under Section [76-5-107](#).

2497 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

2498 (2) (a) An actor commits assault or threat of violence against a health care provider or  
2499 emergency medical service worker if:

2500 (i) the actor is not a prisoner or a detained individual;

2501 (ii) the actor commits an assault or threat of violence;

2502 (iii) the actor knew that the victim was a health care provider or emergency medical  
2503 service worker; and

2504 (iv) the health care provider or emergency medical service worker was performing  
2505 emergency or ~~[life-saving]~~ lifesaving duties within the scope of his or her authority at the time

2506 of the assault or threat of violence.

2507 (b) An actor commits assault or threat of violence against a health facility employee if:

2508 (i) the actor is not a prisoner or a detained individual;

2509 (ii) the actor commits an assault or threat of violence;

2510 (iii) the actor knew that the victim was a health facility employee; and

2511 (iv) the health facility employee was acting within the scope of the health facility

2512 employee's duties for the health facility.

2513 (3) (a) A violation of Subsection (2) is a class A misdemeanor.

2514 (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree  
2515 felony if the actor:

2516 (i) causes substantial bodily injury; and

2517 (ii) acts intentionally or knowingly.

2518 Section 39. Section **76-5-102.9** is amended to read:

2519 **76-5-102.9. Propelling a bodily substance or material -- Penalties.**

2520 (1) (a) As used in this section:

2521 (i) "Bodily substance or material" means:

2522 (A) saliva, blood, urine, semen, or fecal material;

2523 (B) an infectious agent or a material that carries an infectious agent; or

2524 (C) vomit or a material that carries vomit.

2525 (ii) "Infectious agent" means the same as that term is defined in Section [\[26-6-2\]](#)

2526 [26B-7-201](#).

2527 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

2528 (2) An actor commits propelling a bodily substance or material if the actor knowingly  
2529 or intentionally throws or otherwise propels a bodily substance or material at another  
2530 individual.

2531 (3) (a) A violation of Subsection (2) is a class B misdemeanor.

2532 (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a class A  
2533 misdemeanor if:

2534 (i) the bodily substance or material is the actor's saliva and the actor knows the actor is  
2535 infected with HIV, hepatitis B, or hepatitis C; or

2536 (ii) the bodily substance or material comes into contact with any portion of the other

2537 individual's face, including the eyes or mouth, or comes into contact with any open wound on  
2538 the other individual's body.

2539 (4) If an offense committed under this section amounts to an offense subject to a  
2540 greater penalty under another provision of state law than under this section, this section does  
2541 not prohibit prosecution and sentencing for the more serious offense.

2542 Section 40. Section **76-5-112.5** is amended to read:

2543 **76-5-112.5. Endangerment of a child or vulnerable adult.**

2544 (1) (a) As used in this section:

2545 (i) (A) "Chemical substance" means:

2546 (I) a substance intended to be used as a precursor in the manufacture of a controlled  
2547 substance;

2548 (II) a substance intended to be used in the manufacture of a controlled substance; or

2549 (III) any fumes or by-product resulting from the manufacture of a controlled substance.

2550 (B) Intent under this Subsection (1)(a)(i) may be demonstrated by:

2551 (I) the use, quantity, or manner of storage of the substance; or

2552 (II) the proximity of the substance to other precursors or to manufacturing equipment.

2553 (ii) "Child" means an individual who is under 18 years old.

2554 (iii) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

2555 (iv) "Drug paraphernalia" means the same as that term is defined in Section [58-37a-3](#).

2556 (v) "Exposed to" means that the child or vulnerable adult:

2557 (A) is able to access an unlawfully possessed:

2558 (I) controlled substance; or

2559 (II) chemical substance;

2560 (B) has the reasonable capacity to access drug paraphernalia; or

2561 (C) is able to smell an odor produced during, or as a result of, the manufacture or  
2562 production of a controlled substance.

2563 (vi) "Prescription" means the same as that term is defined in Section [58-37-2](#).

2564 (vii) "Vulnerable adult" means the same as that term is defined in Section [76-5-111](#).

2565 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

2566 (2) An actor commits endangerment of a child or vulnerable adult if the actor

2567 knowingly or intentionally causes or permits a child or a vulnerable adult to be exposed to,

2568 inhale, ingest, or have contact with a controlled substance, chemical substance, or drug  
2569 paraphernalia.

2570 (3) (a) A violation of Subsection (2) is a third degree felony.

2571 (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a second degree  
2572 felony if:

2573 (i) the actor engages in the conduct described in Subsection (2); and

2574 (ii) as a result of the conduct described in Subsection (2), the child or the vulnerable  
2575 adult suffers bodily injury, substantial bodily injury, or serious bodily injury.

2576 (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a first  
2577 degree felony if:

2578 (i) the actor engages in the conduct described in Subsection (2); and

2579 (ii) as a result of the conduct described in Subsection (2), the child or the vulnerable  
2580 adult dies.

2581 (4) (a) Notwithstanding Subsection (3), a child may not be subjected to delinquency  
2582 proceedings for a violation of Subsection (2) unless:

2583 (i) the child is 15 years old or older; and

2584 (ii) the other child who is exposed to or inhales, ingests, or has contact with the  
2585 controlled substance, chemical substance, or drug paraphernalia, is under 12 years old.

2586 (b) It is an affirmative defense to a violation of this section that the controlled  
2587 substance:

2588 (i) was obtained by lawful prescription or in accordance with [~~Title 26, Chapter 61a,~~  
2589 ~~Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical  
2590 Cannabis; and

2591 (ii) is used or possessed by the individual to whom the controlled substance was  
2592 lawfully prescribed or recommended to under [~~Title 26, Chapter 61a, Utah Medical Cannabis~~  
2593 ~~Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

2594 (5) The penalties described in this section are separate from, and in addition to, the  
2595 penalties and enhancements described in Title 58, Occupations and Professions.

2596 (6) If an offense committed under this section amounts to an offense subject to a  
2597 greater penalty under another provision of state law, this section does not prohibit prosecution  
2598 and sentencing for the more serious offense.

2599 Section 41. Section 76-5-113 is amended to read:

2600 76-5-113. Surreptitious administration of certain substances -- Definitions --

2601 Penalties -- Defenses.

2602 (1) (a) As used in this section:

2603 (i) "Administer" means the introduction of a substance into the body by injection,  
2604 inhalation, ingestion, or by any other means.

2605 (ii) "Alcoholic beverage" means the same as that term is defined in Section 32B-1-102.

2606 (iii) "Controlled substance" means the same as that term is defined in Section 58-37-2.

2607 (iv) "Deleterious substance" means a substance which, if administered, would likely  
2608 cause bodily injury.

2609 (v) "Health care provider" means the same as that term is defined in Section [26-23a-1]  
2610 78B-3-403.

2611 (vi) "Poisonous" means a substance which, if administered, would likely cause serious  
2612 bodily injury or death.

2613 (vii) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

2614 (viii) "Serious bodily injury" means the same as that term is defined in Section  
2615 19-2-115.

2616 (ix) "Substance" means a controlled substance, poisonous substance, or deleterious  
2617 substance.

2618 (b) Terms defined in Section 76-1-101.5 apply to this section.

2619 (2) An actor commits surreptitious administration of a certain substance if the actor,  
2620 surreptitiously or by means of fraud, deception, or misrepresentation, causes an individual to  
2621 unknowingly consume or receive the administration of:

2622 (a) any poisonous, deleterious, or controlled substance; or

2623 (b) any alcoholic beverage.

2624 (3) A violation of Subsection (2) is:

2625 (a) a second degree felony if the substance is a poisonous substance, regardless of  
2626 whether the substance is a controlled substance or a prescription drug;

2627 (b) a third degree felony if the substance is not within the scope of Subsection (3)(a),  
2628 and is a controlled substance or a prescription drug; or

2629 (c) a class A misdemeanor if the substance is a deleterious substance or an alcoholic

2630 beverage.

2631 (4) (a) It is an affirmative defense to a prosecution under Subsection (2) that the actor:

2632 (i) provided the appropriate administration of a prescription drug; and

2633 (ii) acted on the reasonable belief that the actor's conduct was in the best interest of the

2634 well-being of the individual to whom the prescription drug was administered.

2635 (b) (i) The defendant shall file and serve on the prosecuting attorney a notice in writing

2636 of the defendant's intention to claim a defense under Subsection (4)(a) not fewer than 20 days

2637 before the trial.

2638 (ii) The notice shall specifically identify the factual basis for the defense and the names

2639 and addresses of the witnesses the defendant proposes to examine to establish the defense.

2640 (c) (i) The prosecuting attorney shall file and serve the defendant with a notice

2641 containing the names and addresses of the witnesses the prosecutor proposes to examine in

2642 order to contradict or rebut the defendant's claim of an affirmative defense under Subsection

2643 (4)(a).

2644 (ii) This notice shall be filed or served not more than 10 days after receipt of the

2645 defendant's notice under Subsection (4)(b), or at another time as the court may direct.

2646 (d) (i) Failure of a party to comply with the requirements of Subsection (4)(b) or (4)(c)

2647 entitles the opposing party to a continuance to allow for preparation.

2648 (ii) If the court finds that a party's failure to comply is the result of bad faith, it may

2649 impose appropriate sanctions.

2650 (5) (a) This section does not diminish the scope of authorized health care by a health

2651 care provider.

2652 (b) Conduct in violation of Subsection (2) may also constitute a separate offense.

2653 Section 42. Section **76-5-412** is amended to read:

2654 **76-5-412. Custodial sexual relations -- Penalties -- Defenses and limitations.**

2655 (1) (a) As used in this section:

2656 (i) "Actor" means:

2657 (A) a law enforcement officer, as defined in Section [53-13-103](#);

2658 (B) a correctional officer, as defined in Section [53-13-104](#);

2659 (C) a special function officer, as defined in Section [53-13-105](#); or

2660 (D) an employee of, or private provider or contractor for, the Department of

2661 Corrections or a county jail.

2662 (ii) "Indecent liberties" means the same as that term is defined in Section [76-5-401.1](#).

2663 (iii) "Person in custody" means an individual, either an adult 18 years old or older, or a  
2664 minor younger than 18 years old, who is:

2665 (A) a prisoner, as defined in Section [76-5-101](#), and includes a prisoner who is in the  
2666 custody of the Department of Corrections created under Section [64-13-2](#), but who is being  
2667 housed at the Utah State Hospital established under Section [~~62A-15-601~~] [26B-5-302](#) or other  
2668 medical facility;

2669 (B) under correctional supervision, such as at a work release facility or as a parolee or  
2670 probationer; or

2671 (C) under lawful or unlawful arrest, either with or without a warrant.

2672 (iv) "Private provider or contractor" means a person that contracts with the Department  
2673 of Corrections or with a county jail to provide services or functions that are part of the  
2674 operation of the Department of Corrections or a county jail under state or local law.

2675 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

2676 (2) (a) An actor commits custodial sexual relations if the actor commits any of the acts  
2677 under Subsection (2)(b):

2678 (i) under circumstances not amounting to commission of, or an attempt to commit, an  
2679 offense under Subsection (4); and

2680 (ii) (A) the actor knows that the individual is a person in custody; or

2681 (B) a reasonable person in the actor's position should have known under the  
2682 circumstances that the individual was a person in custody.

2683 (b) Acts referred to in Subsection (2)(a) are:

2684 (i) having sexual intercourse with a person in custody;

2685 (ii) engaging in a sexual act with a person in custody involving the genitals of one  
2686 individual and the mouth or anus of another individual; or

2687 (iii) (A) causing the penetration, however slight, of the genital or anal opening of a  
2688 person in custody by any foreign object, substance, instrument, or device, including a part of  
2689 the human body; and

2690 (B) intending to cause substantial emotional or bodily pain to any individual.

2691 (c) Any touching, even if accomplished through clothing, is sufficient to constitute the

2692 relevant element of a violation of Subsection (2)(a).

2693 (3) (a) A violation of Subsection (2) is a third degree felony.

2694 (b) Notwithstanding Subsection (3)(a), if the person in custody is younger than 18  
2695 years old, a violation of Subsection (2) is a second degree felony.

2696 (c) If the act committed under Subsection (3) amounts to an offense subject to a greater  
2697 penalty under another provision of state law than is provided under this Subsection (3), this  
2698 Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.

2699 (4) The offenses referred to in Subsection (2)(a)(i) and Subsection 76-5-412.2(2)(a)(i)  
2700 are:

2701 (a) Section 76-5-401, unlawful sexual activity with a minor;

2702 (b) Section 76-5-402, rape;

2703 (c) Section 76-5-402.1, rape of a child;

2704 (d) Section 76-5-402.2, object rape;

2705 (e) Section 76-5-402.3, object rape of a child;

2706 (f) Section 76-5-403, forcible sodomy;

2707 (g) Section 76-5-403.1, sodomy on a child;

2708 (h) Section 76-5-404, forcible sexual abuse;

2709 (i) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated  
2710 sexual abuse of a child; or

2711 (j) Section 76-5-405, aggravated sexual assault.

2712 (5) (a) It is not a defense to the commission of, or the attempt to commit, the offense of  
2713 custodial sexual relations under Subsection (2) if the person in custody is younger than 18 years  
2714 old, that the actor:

2715 (i) mistakenly believed the person in custody to be 18 years old or older at the time of  
2716 the alleged offense; or

2717 (ii) was unaware of the true age of the person in custody.

2718 (b) Consent of the person in custody is not a defense to any violation or attempted  
2719 violation of Subsection (2).

2720 (6) It is a defense that the commission by the actor of an act under Subsection (2) is the  
2721 result of compulsion, as the defense is described in Subsection 76-2-302(1).

2722 Section 43. Section 76-5b-201 is amended to read:



2723 **76-5b-201. Sexual exploitation of a minor -- Offenses.**  
2724 (1) Terms defined in Section 76-1-101.5 apply to this section.  
2725 (2) An actor commits sexual exploitation of a minor when the actor knowingly  
2726 possesses or intentionally views child pornography.  
2727 (3) (a) A violation of Subsection (2) is a second degree felony.  
2728 (b) It is a separate offense under this section:  
2729 (i) for each minor depicted in the child pornography; and  
2730 (ii) for each time the same minor is depicted in different child pornography.  
2731 (4) (a) It is an affirmative defense to a charge of violating this section that no minor  
2732 was actually depicted in the visual depiction or used in producing or advertising the visual  
2733 depiction.  
2734 (b) For a charge of violating this section, it is an affirmative defense that:  
2735 (i) the defendant:  
2736 (A) did not solicit the child pornography from the minor depicted in the child  
2737 pornography;  
2738 (B) is not more than two years older than the minor depicted in the child pornography;  
2739 and  
2740 (C) upon request of a law enforcement agent or the minor depicted in the child  
2741 pornography, removes from an electronic device or destroys the child pornography and all  
2742 copies of the child pornography in the defendant's possession; and  
2743 (ii) the child pornography does not depict an offense under Chapter 5, Part 4, Sexual  
2744 Offenses.  
2745 (5) In proving a violation of this section in relation to an identifiable minor, proof of  
2746 the actual identity of the identifiable minor is not required.  
2747 (6) This section may not be construed to impose criminal or civil liability on:  
2748 (a) an entity or an employee, director, officer, or agent of an entity when acting within  
2749 the scope of employment, for the good faith performance of:  
2750 (i) reporting or data preservation duties required under federal or state law; or  
2751 (ii) implementing a policy of attempting to prevent the presence of child pornography  
2752 on tangible or intangible property, or of detecting and reporting the presence of child  
2753 pornography on the property;

- 2754 (b) a law enforcement officer acting within the scope of a criminal investigation;
- 2755 (c) an employee of a court who may be required to view child pornography during the
- 2756 course of and within the scope of the employee's employment;
- 2757 (d) a juror who may be required to view child pornography during the course of the
- 2758 individual's service as a juror;
- 2759 (e) an attorney or employee of an attorney who is required to view child pornography
- 2760 during the course of a judicial process and while acting within the scope of employment;
- 2761 (f) an employee of the Department of [~~Human Services~~] Health and Human Services
- 2762 who is required to view child pornography within the scope of the employee's employment; or
- 2763 (g) an attorney who is required to view child pornography within the scope of the
- 2764 attorney's responsibility to represent the Department of [~~Human Services~~] Health and Human
- 2765 Services, including the divisions and offices within the Department of [~~Human Services~~]
- 2766 Health and Human Services.

2767 Section 44. Section **76-6-106** is amended to read:

2768 **76-6-106. Criminal mischief.**

2769 (1) As used in this section, "critical infrastructure" includes:

- 2770 (a) information and communication systems;
- 2771 (b) financial and banking systems;
- 2772 (c) any railroads, airlines, airports, airways, highways, bridges, waterways, fixed
- 2773 guideways, or other transportation systems intended for the transportation of persons or
- 2774 property;
- 2775 (d) any public utility service, including the power, energy, and water supply systems;
- 2776 (e) sewage and water treatment systems;
- 2777 (f) health care facilities as listed in Section [~~26-21-2~~] 26B-2-201, and emergency fire,
- 2778 medical, and law enforcement response systems;
- 2779 (g) public health facilities and systems;
- 2780 (h) food distribution systems; and
- 2781 (i) other government operations and services.
- 2782 (2) A person commits criminal mischief if the person:
- 2783 (a) under circumstances not amounting to arson, damages or destroys property with the
- 2784 intention of defrauding an insurer;

2785 (b) intentionally and unlawfully tampers with the property of another and as a result:

2786 (i) recklessly endangers:

2787 (A) human life; or

2788 (B) human health or safety; or

2789 (ii) recklessly causes or threatens a substantial interruption or impairment of any  
2790 critical infrastructure;

2791 (c) intentionally damages, defaces, or destroys the property of another; or

2792 (d) recklessly or willfully shoots or propels a missile or other object at or against a  
2793 motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving  
2794 or standing.

2795 (3) (a) (i) A violation of Subsection (2)(a) is a third degree felony.

2796 (ii) A violation of Subsection (2)(b)(i)(A) is a class A misdemeanor.

2797 (iii) A violation of Subsection (2)(b)(i)(B) is a class B misdemeanor.

2798 (iv) A violation of Subsection (2)(b)(ii) is a second degree felony.

2799 (b) Any other violation of this section is a:

2800 (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary  
2801 loss equal to or in excess of \$5,000 in value;

2802 (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary  
2803 loss equal to or in excess of \$1,500 but is less than \$5,000 in value;

2804 (iii) class A misdemeanor if the actor's conduct causes or is intended to cause  
2805 pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and

2806 (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary  
2807 loss less than \$500 in value.

2808 (4) In determining the value of damages under this section, or for computer crimes  
2809 under Section [76-6-703](#), the value of any item, computer, computer network, computer  
2810 property, computer services, software, or data includes the measurable value of the loss of use  
2811 of the items and the measurable cost to replace or restore the items.

2812 (5) In addition to any other penalty authorized by law, a court shall order any person  
2813 convicted of any violation of this section to reimburse any federal, state, or local unit of  
2814 government, or any private business, organization, individual, or entity for all expenses  
2815 incurred in responding to a violation of Subsection (2)(b)(ii), unless the court states on the

2816 record the reasons why the reimbursement would be inappropriate.

2817 Section 45. Section **76-6-702** is amended to read:

2818 **76-6-702. Definitions.**

2819 As used in this part:

2820 (1) "Access" means to directly or indirectly use, attempt to use, instruct, communicate  
2821 with, cause input to, cause output from, or otherwise make use of any resources of a computer,  
2822 computer system, computer network, or any means of communication with any of them.

2823 (2) "Authorization" means having the express or implied consent or permission of the  
2824 owner, or of the person authorized by the owner to give consent or permission to access a  
2825 computer, computer system, or computer network in a manner not exceeding the consent or  
2826 permission.

2827 (3) "Computer" means any electronic device or communication facility that stores,  
2828 processes, transmits, or facilitates the transmission of data.

2829 (4) "Computer network" means:

2830 (a) the interconnection of communication or telecommunication lines between:

2831 (i) computers; or

2832 (ii) computers and remote terminals; or

2833 (b) the interconnection by wireless technology between:

2834 (i) computers; or

2835 (ii) computers and remote terminals.

2836 (5) "Computer property" includes electronic impulses, electronically produced data,  
2837 information, financial instruments, software, or programs, in either machine or human readable  
2838 form, any other tangible or intangible item relating to a computer, computer system, computer  
2839 network, and copies of any of them.

2840 (6) "Computer system" means a set of related, connected or unconnected, devices,  
2841 software, or other related computer equipment.

2842 (7) "Computer technology" includes:

2843 (a) a computer;

2844 (b) a computer network;

2845 (c) computer hardware;

2846 (d) a computer system;

- 2847 (e) a computer program;
- 2848 (f) computer services;
- 2849 (g) computer software; or
- 2850 (h) computer data.
- 2851 (8) "Confidential" means data, text, or computer property that is protected by a security
- 2852 system that clearly evidences that the owner or custodian intends that it not be available to
- 2853 others without the owner's or custodian's permission.
- 2854 (9) "Critical infrastructure" includes:
- 2855 (a) a financial or banking system;
- 2856 (b) any railroad, airline, airport, airway, highway, bridge, waterway, fixed guideway, or
- 2857 other transportation system intended for the transportation of persons or property;
- 2858 (c) any public utility service, including a power, energy, gas, or water supply system;
- 2859 (d) a sewage or water treatment system;
- 2860 (e) a health care facility, as that term is defined in Section [\[26-21-2\] 26B-2-201](#);
- 2861 (f) an emergency fire, medical, or law enforcement response system;
- 2862 (g) a public health facility or system;
- 2863 (h) a food distribution system;
- 2864 (i) a government computer system or network;
- 2865 (j) a school; or
- 2866 (k) other government facilities, operations, or services.
- 2867 (10) "Denial of service attack" means an attack or intrusion that is intended to disrupt
- 2868 legitimate access to, or use of, a network resource, a machine, or computer technology.
- 2869 (11) "Financial instrument" includes any check, draft, money order, certificate of
- 2870 deposit, letter of credit, bill of exchange, electronic fund transfer, automated clearing house
- 2871 transaction, credit card, or marketable security.
- 2872 (12) (a) "Identifying information" means a person's:
- 2873 (i) social security number;
- 2874 (ii) driver license number;
- 2875 (iii) nondriver governmental identification number;
- 2876 (iv) bank account number;
- 2877 (v) student identification number;

2878 (vi) credit or debit card number;

2879 (vii) personal identification number;

2880 (viii) unique biometric data;

2881 (ix) employee or payroll number;

2882 (x) automated or electronic signature; or

2883 (xi) computer password.

2884 (b) "Identifying information" does not include information that is lawfully available

2885 from publicly available information, or from federal, state, or local government records

2886 lawfully made available to the general public.

2887 (13) "Information" does not include information obtained:

2888 (a) through use of:

2889 (i) an electronic product identification or tracking system; or

2890 (ii) other technology used by a retailer to identify, track, or price goods; and

2891 (b) by a retailer through the use of equipment designed to read the electronic product

2892 identification or tracking system data located within the retailer's location.

2893 (14) "Interactive computer service" means an information service, system, or access

2894 software provider that provides or enables computer access by multiple users to a computer

2895 server, including a service or system that provides access to the Internet or a system operated,

2896 or services offered, by a library or an educational institution.

2897 (15) "License or entitlement" includes:

2898 (a) licenses, certificates, and permits granted by governments;

2899 (b) degrees, diplomas, and grades awarded by educational institutions;

2900 (c) military ranks, grades, decorations, and awards;

2901 (d) membership and standing in organizations and religious institutions;

2902 (e) certification as a peace officer;

2903 (f) credit reports; and

2904 (g) another record or datum upon which a person may be reasonably expected to rely in

2905 making decisions that will have a direct benefit or detriment to another.

2906 (16) "Security system" means a computer, computer system, network, or computer

2907 property that has some form of access control technology implemented, such as encryption,

2908 password protection, other forced authentication, or access control designed to keep out

2909 unauthorized persons.

2910 (17) "Services" include computer time, data manipulation, and storage functions.

2911 (18) "Service provider" means a telecommunications carrier, cable operator, computer  
2912 hardware or software provider, or a provider of information service or interactive computer  
2913 service.

2914 (19) "Software" or "program" means a series of instructions or statements in a form  
2915 acceptable to a computer, relating to the operations of the computer, or permitting the  
2916 functioning of a computer system in a manner designed to provide results including system  
2917 control programs, application programs, or copies of any of them.

2918 Section 46. Section **76-7-301** is amended to read:

2919 **76-7-301. Definitions.**

2920 As used in this part:

2921 (1) (a) "Abortion" means:

2922 (i) the intentional termination or attempted termination of human pregnancy after  
2923 implantation of a fertilized ovum through a medical procedure carried out by a physician or  
2924 through a substance used under the direction of a physician;

2925 (ii) the intentional killing or attempted killing of a live unborn child through a medical  
2926 procedure carried out by a physician or through a substance used under the direction of a  
2927 physician; or

2928 (iii) the intentional causing or attempted causing of a miscarriage through a medical  
2929 procedure carried out by a physician or through a substance used under the direction of a  
2930 physician.

2931 (b) "Abortion" does not include:

2932 (i) removal of a dead unborn child;

2933 (ii) removal of an ectopic pregnancy; or

2934 (iii) the killing or attempted killing of an unborn child without the consent of the  
2935 pregnant woman, unless:

2936 (A) the killing or attempted killing is done through a medical procedure carried out by  
2937 a physician or through a substance used under the direction of a physician; and

2938 (B) the physician is unable to obtain the consent due to a medical emergency.

2939 (2) "Abortion clinic" means the same as that term is defined in Section [26-21-2]

2940 [26B-2-201](#).

2941 (3) "Abuse" means the same as that term is defined in Section [80-1-102](#).

2942 (4) "Department" means the Department of [~~Health~~] Health and Human Services.

2943 (5) "Down syndrome" means a genetic condition associated with an extra chromosome  
2944 21, in whole or in part, or an effective trisomy for chromosome 21.

2945 (6) "Gestational age" means the age of an unborn child as calculated from the first day  
2946 of the last menstrual period of the pregnant woman.

2947 (7) "Hospital" means:

2948 (a) a general hospital licensed by the department according to [~~Title 26, Chapter 21,~~  
2949 ~~Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care  
2950 Facility Licensing and Inspection; and

2951 (b) a clinic or other medical facility to the extent that such clinic or other medical  
2952 facility is certified by the department as providing equipment and personnel sufficient in  
2953 quantity and quality to provide the same degree of safety to the pregnant woman and the  
2954 unborn child as would be provided for the particular medical procedures undertaken by a  
2955 general hospital licensed by the department.

2956 (8) "Information module" means the pregnancy termination information module  
2957 prepared by the department.

2958 (9) "Medical emergency" means that condition which, on the basis of the physician's  
2959 good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the  
2960 immediate abortion of her pregnancy to avert her death, or for which a delay will create serious  
2961 risk of substantial and irreversible impairment of major bodily function.

2962 (10) "Minor" means an individual who is:

2963 (a) under 18 years old;

2964 (b) unmarried; and

2965 (c) not emancipated.

2966 (11) (a) "Partial birth abortion" means an abortion in which the person performing the  
2967 abortion:

2968 (i) deliberately and intentionally vaginally delivers a living fetus until, in the case of a  
2969 head first presentation, the entire fetal head is outside the body of the mother, or, in the case of  
2970 breech presentation, any part of the fetal trunk past the navel is outside the body of the mother,



2971 for the purpose of performing an overt act that the person knows will kill the partially delivered  
2972 living fetus; and

2973 (ii) performs the overt act, other than completion of delivery, that kills the partially  
2974 living fetus.

2975 (b) "Partial birth abortion" does not include the dilation and evacuation procedure  
2976 involving dismemberment prior to removal, the suction curettage procedure, or the suction  
2977 aspiration procedure for abortion.

2978 (12) "Physician" means:

2979 (a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter  
2980 67, Utah Medical Practice Act;

2981 (b) an osteopathic physician licensed to practice osteopathic medicine under Title 58,  
2982 Chapter 68, Utah Osteopathic Medical Practice Act; or

2983 (c) a physician employed by the federal government who has qualifications similar to a  
2984 person described in Subsection (12)(a) or (b).

2985 (13) (a) "Severe brain abnormality" means a malformation or defect that causes an  
2986 individual to live in a mentally vegetative state.

2987 (b) "Severe brain abnormality" does not include:

2988 (i) Down syndrome;

2989 (ii) spina bifida;

2990 (iii) cerebral palsy; or

2991 (iv) any other malformation, defect, or condition that does not cause an individual to  
2992 live in a mentally vegetative state.

2993 Section 47. Section **76-7-305** is amended to read:

2994 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**  
2995 **-- Exceptions.**

2996 (1) A person may not perform an abortion, unless, before performing the abortion, the  
2997 physician who will perform the abortion obtains from the woman on whom the abortion is to  
2998 be performed a voluntary and informed written consent that is consistent with:

2999 (a) Section 8.08 of the American Medical Association's Code of Medical Ethics,  
3000 Current Opinions; and

3001 (b) the provisions of this section.

3002 (2) Except as provided in Subsection (8), consent to an abortion is voluntary and  
3003 informed only if, at least 72 hours before the abortion:

3004 (a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse  
3005 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or  
3006 physician's assistant presents the information module to the pregnant woman;

3007 (b) the pregnant woman views the entire information module and presents evidence to  
3008 the individual described in Subsection (2)(a) that the pregnant woman viewed the entire  
3009 information module;

3010 (c) after receiving the evidence described in Subsection (2)(b), the individual described  
3011 in Subsection (2)(a):

3012 (i) documents that the pregnant woman viewed the entire information module;

3013 (ii) gives the pregnant woman, upon her request, a copy of the documentation  
3014 described in Subsection (2)(c)(i); and

3015 (iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician  
3016 who is to perform the abortion, upon request of that physician or the pregnant woman;

3017 (d) after the pregnant woman views the entire information module, the physician who  
3018 is to perform the abortion, the referring physician, a physician, a registered nurse, nurse  
3019 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or  
3020 physician's assistant, in a face-to-face consultation in any location in the state, orally informs  
3021 the woman of:

3022 (i) the nature of the proposed abortion procedure;

3023 (ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the  
3024 fetus;

3025 (iii) the risks and alternatives to the abortion procedure or treatment;

3026 (iv) the options and consequences of aborting a medication-induced abortion, if the  
3027 proposed abortion procedure is a medication-induced abortion;

3028 (v) the probable gestational age and a description of the development of the unborn  
3029 child at the time the abortion would be performed;

3030 (vi) the medical risks associated with carrying her child to term;

3031 (vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant  
3032 woman, upon her request; and

3033 (viii) when the result of a prenatal screening or diagnostic test indicates that the unborn  
3034 child has or may have Down syndrome, the Department of [~~Health~~] Health and Human  
3035 Services website containing the information described in Section [~~26-10-14~~] 26B-7-106,  
3036 including the information on the informational support sheet; and

3037 (e) after the pregnant woman views the entire information module, a staff member of  
3038 the abortion clinic or hospital provides to the pregnant woman:

3039 (i) on a document that the pregnant woman may take home:

3040 (A) the address for the department's website described in Section 76-7-305.5; and

3041 (B) a statement that the woman may request, from a staff member of the abortion clinic  
3042 or hospital where the woman viewed the information module, a printed copy of the material on  
3043 the department's website;

3044 (ii) a printed copy of the material on the department's website described in Section  
3045 76-7-305.5, if requested by the pregnant woman; and

3046 (iii) a copy of the form described in Subsection [~~26-21-33(3)(a)(i)~~] 26B-2-232(3)(a)(i)  
3047 regarding the disposition of the aborted fetus.

3048 (3) Before performing an abortion, the physician who is to perform the abortion shall:

3049 (a) in a face-to-face consultation, provide the information described in Subsection  
3050 (2)(d), unless the attending physician or referring physician is the individual who provided the  
3051 information required under Subsection (2)(d); and

3052 (b) (i) obtain from the pregnant woman a written certification that the information  
3053 required to be provided under Subsection (2) and this Subsection (3) was provided in  
3054 accordance with the requirements of Subsection (2) and this Subsection (3);

3055 (ii) obtain a copy of the statement described in Subsection (2)(c)(i); and

3056 (iii) ensure that:

3057 (A) the woman has received the information described in Subsections [~~26-21-33(3)~~] and  
3058 (4)] 26B-2-232(3) and (4); and

3059 (B) if the woman has a preference for the disposition of the aborted fetus, the woman  
3060 has informed the health care facility of the woman's decision regarding the disposition of the  
3061 aborted fetus.

3062 (4) When a serious medical emergency compels the performance of an abortion, the  
3063 physician shall inform the woman prior to the abortion, if possible, of the medical indications

3064 supporting the physician's judgment that an abortion is necessary.

3065 (5) If an ultrasound is performed on a woman before an abortion is performed, the  
3066 individual who performs the ultrasound, or another qualified individual, shall:

3067 (a) inform the woman that the ultrasound images will be simultaneously displayed in a  
3068 manner to permit her to:

3069 (i) view the images, if she chooses to view the images; or

3070 (ii) not view the images, if she chooses not to view the images;

3071 (b) simultaneously display the ultrasound images in order to permit the woman to:

3072 (i) view the images, if she chooses to view the images; or

3073 (ii) not view the images, if she chooses not to view the images;

3074 (c) inform the woman that, if she desires, the person performing the ultrasound, or  
3075 another qualified person shall provide a detailed description of the ultrasound images,

3076 including:

3077 (i) the dimensions of the unborn child;

3078 (ii) the presence of cardiac activity in the unborn child, if present and viewable; and

3079 (iii) the presence of external body parts or internal organs, if present and viewable; and

3080 (d) provide the detailed description described in Subsection (5)(c), if the woman  
3081 requests it.

3082 (6) The information described in Subsections (2), (3), and (5) is not required to be  
3083 provided to a pregnant woman under this section if the abortion is performed for a reason  
3084 described in:

3085 (a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician  
3086 concur, in writing, that the abortion is necessary to avert:

3087 (i) the death of the woman on whom the abortion is performed; or

3088 (ii) a serious risk of substantial and irreversible impairment of a major bodily function  
3089 of the woman on whom the abortion is performed; or

3090 (b) Subsection 76-7-302(3)(b)(ii).

3091 (7) In addition to the criminal penalties described in this part, a physician who violates  
3092 the provisions of this section:

3093 (a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102;

3094 and

3095 (b) shall be subject to:

3096 (i) suspension or revocation of the physician's license for the practice of medicine and  
3097 surgery in accordance with Section 58-67-401 or 58-68-401; and

3098 (ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

3099 (8) A physician is not guilty of violating this section for failure to furnish any of the  
3100 information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

3101 (a) the physician can demonstrate by a preponderance of the evidence that the  
3102 physician reasonably believed that furnishing the information would have resulted in a severely  
3103 adverse effect on the physical or mental health of the pregnant woman;

3104 (b) in the physician's professional judgment, the abortion was necessary to avert:

3105 (i) the death of the woman on whom the abortion is performed; or

3106 (ii) a serious risk of substantial and irreversible impairment of a major bodily function  
3107 of the woman on whom the abortion is performed;

3108 (c) the pregnancy was the result of rape or rape of a child, as described in Sections  
3109 76-5-402 and 76-5-402.1;

3110 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and  
3111 Section 76-7-102; or

3112 (e) at the time of the abortion, the pregnant woman was 14 years old or younger.

3113 (9) A physician who complies with the provisions of this section and Section  
3114 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain  
3115 informed consent under Section 78B-3-406.

3116 (10) (a) The department shall provide an ultrasound, in accordance with the provisions  
3117 of Subsection (5)(b), at no expense to the pregnant woman.

3118 (b) A local health department shall refer a pregnant woman who requests an ultrasound  
3119 described in Subsection (10)(a) to the department.

3120 (11) A physician is not guilty of violating this section if:

3121 (a) the information described in Subsection (2) is provided less than 72 hours before  
3122 the physician performs the abortion; and

3123 (b) in the physician's professional judgment, the abortion was necessary in a case  
3124 where:

3125 (i) a ruptured membrane, documented by the attending or referring physician, will

3126 cause a serious infection; or

3127 (ii) a serious infection, documented by the attending or referring physician, will cause a  
3128 ruptured membrane.

3129 Section 48. Section **76-7-305.5** is amended to read:

3130 **76-7-305.5. Requirements for information module and website.**

3131 (1) In order to ensure that a woman's consent to an abortion is truly an informed  
3132 consent, the department shall, in accordance with the requirements of this section, develop an  
3133 information module and maintain a public website.

3134 (2) The information module and public website described in Subsection (1) shall:

3135 (a) be scientifically accurate, comprehensible, and presented in a truthful,  
3136 nonmisleading manner;

3137 (b) present adoption as a preferred and positive choice and alternative to abortion;

3138 (c) be produced in a manner that conveys the state's preference for childbirth over  
3139 abortion;

3140 (d) state that the state prefers childbirth over abortion;

3141 (e) state that it is unlawful for any person to coerce a woman to undergo an abortion;

3142 (f) state that any physician who performs an abortion without obtaining the woman's  
3143 informed consent or without providing her a private medical consultation in accordance with  
3144 the requirements of this section, may be liable to her for damages in a civil action at law;

3145 (g) provide a geographically indexed list of resources and public and private services  
3146 available to assist, financially or otherwise, a pregnant woman during pregnancy, at childbirth,  
3147 and while the child is dependent, including:

3148 (i) medical assistance benefits for prenatal care, childbirth, and neonatal care;

3149 (ii) services and supports available under Section [35A-3-308](#);

3150 (iii) other financial aid that may be available during an adoption;

3151 (iv) services available from public adoption agencies, private adoption agencies, and  
3152 private attorneys whose practice includes adoption; and

3153 (v) the names, addresses, and telephone numbers of each person listed under this  
3154 Subsection (2)(g);

3155 (h) describe the adoption-related expenses that may be paid under Section [76-7-203](#);

3156 (i) describe the persons who may pay the adoption related expenses described in

3157 Subsection (2)(h);

3158 (j) except as provided in Subsection (4), describe the legal responsibility of the father  
3159 of a child to assist in child support, even if the father has agreed to pay for an abortion;

3160 (k) except as provided in Subsection (4), describe the services available through the  
3161 Office of Recovery Services, within the Department of [~~Human Services~~] Health and Human  
3162 Services, to establish and collect the support described in Subsection (2)(j);

3163 (l) state that private adoption is legal;

3164 (m) describe and depict, with pictures or video segments, the probable anatomical and  
3165 physiological characteristics of an unborn child at two-week gestational increments from  
3166 fertilization to full term, including:

3167 (i) brain and heart function;

3168 (ii) the presence and development of external members and internal organs; and

3169 (iii) the dimensions of the fetus;

3170 (n) show an ultrasound of the heartbeat of an unborn child at:

3171 (i) four weeks from conception;

3172 (ii) six to eight weeks from conception; and

3173 (iii) each month after 10 weeks gestational age, up to 14 weeks gestational age;

3174 (o) describe abortion procedures used in current medical practice at the various stages  
3175 of growth of the unborn child, including:

3176 (i) the medical risks associated with each procedure;

3177 (ii) the risk related to subsequent childbearing that are associated with each procedure;

3178 and

3179 (iii) the consequences of each procedure to the unborn child at various stages of fetal  
3180 development;

3181 (p) describe the possible detrimental psychological effects of abortion;

3182 (q) describe the medical risks associated with carrying a child to term;

3183 (r) include relevant information on the possibility of an unborn child's survival at the  
3184 two-week gestational increments described in Subsection (2)(m);

3185 (s) except as provided in Subsection (5), include:

3186 (i) information regarding substantial medical evidence from studies concluding that an  
3187 unborn child who is at least 20 weeks gestational age may be capable of experiencing pain

3188 during an abortion procedure; and

3189 (ii) the measures that will be taken in accordance with Section [76-7-308.5](#);

3190 (t) explain the options and consequences of aborting a medication-induced abortion;

3191 (u) include the following statement regarding a medication-induced abortion,

3192 "Research indicates that mifepristone alone is not always effective in ending a pregnancy. You  
3193 may still have a viable pregnancy after taking mifepristone. If you have taken mifepristone but  
3194 have not yet taken the second drug and have questions regarding the health of your fetus or are  
3195 questioning your decision to terminate your pregnancy, you should consult a physician  
3196 immediately.";

3197 (v) inform a pregnant woman that she has the right to view an ultrasound of the unborn  
3198 child, at no expense to her, upon her request;

3199 (w) inform a pregnant woman that she has the right to:

3200 (i) determine the final disposition of the remains of the aborted fetus;

3201 (ii) unless the woman waives this right in writing, wait up to 72 hours after the  
3202 abortion procedure is performed to make a determination regarding the disposition of the  
3203 aborted fetus before the health care facility may dispose of the fetal remains;

3204 (iii) receive information about options for disposition of the aborted fetus, including  
3205 the method of disposition that is usual and customary for a health care facility; and

3206 (iv) for a medication-induced abortion, return the aborted fetus to the health care  
3207 facility for disposition; and

3208 (x) provide a digital copy of the form described in Subsection [~~26-21-33(3)(a)(i)~~]  
3209 [26B-2-232\(3\)\(a\)\(i\)](#); and

3210 (y) be in a typeface large enough to be clearly legible.

3211 (3) The information module and website described in Subsection (1) may include a  
3212 toll-free 24-hour telephone number that may be called in order to obtain, orally, a list and  
3213 description of services, agencies, and adoption attorneys in the locality of the caller.

3214 (4) The department may develop a version of the information module and website that  
3215 omits the information in Subsections (2)(j) and (k) for a viewer who is pregnant as the result of  
3216 rape.

3217 (5) The department may develop a version of the information module and website that  
3218 omits the information described in Subsection (2)(s) for a viewer who will have an abortion



3219 performed:

3220 (a) on an unborn child who is less than 20 weeks gestational age at the time of the  
3221 abortion; or

3222 (b) on an unborn child who is at least 20 weeks gestational age at the time of the  
3223 abortion, if:

3224 (i) the abortion is being performed for a reason described in Subsection

3225 76-7-302(3)(b)(i) or (ii); and

3226 (ii) due to a serious medical emergency, time does not permit compliance with the  
3227 requirement to provide the information described in Subsection (2)(s).

3228 (6) The department and each local health department shall make the information  
3229 module and the website described in Subsection (1) available at no cost to any person.

3230 (7) The department shall make the website described in Subsection (1) available for  
3231 viewing on the department's website by clicking on a conspicuous link on the home page of the  
3232 website.

3233 (8) The department shall ensure that the information module is:

3234 (a) available to be viewed at all facilities where an abortion may be performed;

3235 (b) interactive for the individual viewing the module, including the provision of  
3236 opportunities to answer questions and manually engage with the module before the module  
3237 transitions from one substantive section to the next;

3238 (c) produced in English and may include subtitles in Spanish or another language; and

3239 (d) capable of being viewed on a tablet or other portable device.

3240 (9) After the department releases the initial version of the information module, for the  
3241 use described in Section 76-7-305, the department shall:

3242 (a) update the information module, as required by law; and

3243 (b) present an updated version of the information module to the Health and Human  
3244 Services Interim Committee for the committee's review and recommendation before releasing  
3245 the updated version for the use described in Section 76-7-305.

3246 Section 49. Section 76-7-306 is amended to read:

3247 **76-7-306. Refusal to participate, admit, or treat for abortion based on religious or**  
3248 **moral grounds -- Cause of action.**

3249 (1) As used in this section:

- 3250 (a) "Health care facility" is as defined in Section [~~26-21-2~~] [26B-2-201](#).
- 3251 (b) "Health care provider" means an individual who is an employee of, has practice  
3252 privileges at, or is otherwise associated with a health care facility.
- 3253 (2) A health care provider may, on religious or moral grounds, refuse to perform or  
3254 participate in any way, in:
- 3255 (a) an abortion; or
- 3256 (b) a procedure that is intended to, or likely to, result in the termination of a pregnancy.
- 3257 (3) Except as otherwise required by law, a health care facility may refuse, on religious  
3258 or moral grounds, to:
- 3259 (a) admit a patient for an abortion procedure or another procedure that is intended to, or  
3260 likely to, result in the termination of a pregnancy; or
- 3261 (b) perform for a patient an abortion procedure or another procedure that is intended to,  
3262 or likely to, result in the termination of a pregnancy.
- 3263 (4) A health care provider's refusal under Subsection (2) and a health care facility's  
3264 refusal under Subsection (3) may not be the basis for civil liability or other recriminatory  
3265 action.
- 3266 (5) A health care facility, employer, or other person may not take an adverse action  
3267 against a health care provider for exercising the health care provider's right of refusal described  
3268 in Subsection (2), or for bringing or threatening to bring an action described in Subsection (6),  
3269 including:
- 3270 (a) dismissal;
- 3271 (b) demotion;
- 3272 (c) suspension;
- 3273 (d) discipline;
- 3274 (e) discrimination;
- 3275 (f) harassment;
- 3276 (g) retaliation;
- 3277 (h) adverse change in status;
- 3278 (i) termination of, adverse alteration of, or refusal to renew an association or  
3279 agreement; or
- 3280 (j) refusal to provide a benefit, privilege, raise, promotion, tenure, or increased status

3281 that the health care provider would have otherwise received.

3282 (6) A person who is adversely impacted by conduct prohibited in Subsection (5) may  
3283 bring a civil action for equitable relief, including reinstatement, and for damages. A person  
3284 who brings an action under this section must commence the action within three years after the  
3285 day on which the cause of action arises.

3286 Section 50. Section **76-7-313** is amended to read:

3287 **76-7-313. Department's enforcement responsibility -- Physician's report to**  
3288 **department.**

3289 (1) In order for the department to maintain necessary statistical information and ensure  
3290 enforcement of the provisions of this part:

3291 (a) any physician performing an abortion must obtain and record in writing:

3292 (i) the age, marital status, and county of residence of the woman on whom the abortion  
3293 was performed;

3294 (ii) the number of previous abortions performed on the woman described in Subsection  
3295 (1)(a)(i);

3296 (iii) the hospital or other facility where the abortion was performed;

3297 (iv) the weight in grams of the unborn child aborted, if it is possible to ascertain;

3298 (v) the pathological description of the unborn child;

3299 (vi) the given gestational age of the unborn child;

3300 (vii) the date the abortion was performed;

3301 (viii) the measurements of the unborn child, if possible to ascertain; and

3302 (ix) the medical procedure used to abort the unborn child; and

3303 (b) the department shall make rules in accordance with Title 63G, Chapter 3, Utah  
3304 Administrative Rulemaking Act.

3305 (2) Each physician who performs an abortion shall provide the following to the  
3306 department within 30 days after the day on which the abortion is performed:

3307 (a) the information described in Subsection (1);

3308 (b) a copy of the pathologist's report described in Section [76-7-309](#);

3309 (c) an affidavit:

3310 (i) indicating whether the required consent was obtained pursuant to Sections [76-7-305](#)  
3311 and [76-7-305.5](#);

3312 (ii) described in Subsection (3), if applicable; and  
3313 (iii) indicating whether at the time the physician performed the abortion, the physician  
3314 had any knowledge that the pregnant woman sought the abortion solely because the unborn  
3315 child had or may have had Down syndrome; and  
3316 (d) a certificate indicating:  
3317 (i) whether the unborn child was or was not viable, as defined in Subsection  
3318 [76-7-302\(1\)](#), at the time of the abortion;  
3319 (ii) whether the unborn child was older than 18 weeks gestational age at the time of the  
3320 abortion; and  
3321 (iii) if the unborn child was viable, as defined in Subsection [76-7-302\(1\)](#), or older than  
3322 18 weeks gestational age at the time of the abortion, the reason for the abortion.  
3323 (3) If the information module or the address to the website is not provided to a  
3324 pregnant woman, the physician who performs the abortion on the woman shall, within 10 days  
3325 after the day on which the abortion is performed, provide to the department an affidavit that:  
3326 (a) specifies the information that was not provided to the woman; and  
3327 (b) states the reason that the information was not provided to the woman.  
3328 (4) All information supplied to the department shall be confidential and privileged  
3329 pursuant to [~~Title 26, Chapter 25, Confidential Information Release~~] [Section 26B-1-229](#).  
3330 (5) The department shall pursue all administrative and legal remedies when the  
3331 department determines that a physician or a facility has not complied with the provisions of this  
3332 part.  
3333 Section 51. Section **76-7-314** is amended to read:  
3334 **76-7-314. Violations of abortion laws -- Classifications.**  
3335 (1) A willful violation of Section [76-7-307](#), [76-7-308](#), [76-7-310](#), [76-7-310.5](#), [76-7-311](#),  
3336 or [76-7-312](#) is a felony of the third degree.  
3337 (2) A violation of Section [76-7-326](#) is a felony of the third degree.  
3338 (3) A violation of Section [76-7-302.5](#) or [76-7-314.5](#) is a felony of the second degree.  
3339 (4) A violation of any other provision of this part, including Subsections  
3340 [76-7-305\(2\)\(a\)](#) through (c), and (e), is a class A misdemeanor.  
3341 (5) The Department of [~~Health~~] Health and Human Services shall report a physician's  
3342 violation of any provision of this part to the Physicians Licensing Board, described in Section

3343 [58-67-201](#).

3344 (6) Any person with knowledge of a physician's violation of any provision of this part  
3345 may report the violation to the Physicians Licensing Board, described in Section [58-67-201](#).

3346 (7) In addition to the penalties described in this section, the department may take any  
3347 action described in Section [~~26-21-11~~] [26B-2-208](#) against an abortion clinic if a violation of  
3348 this chapter occurs at the abortion clinic.

3349 Section 52. Section [76-8-311.1](#) is amended to read:

3350 **[76-8-311.1](#). Secure areas -- Items prohibited -- Penalty.**

3351 (1) In addition to the definitions in Section [76-10-501](#), as used in this section:

3352 (a) "Correctional facility" has the same meaning as defined in Section [76-8-311.3](#).

3353 (b) "Explosive" has the same meaning as defined for "explosive, chemical, or  
3354 incendiary device" defined in Section [76-10-306](#).

3355 (c) "Law enforcement facility" means a facility which is owned, leased, or operated by  
3356 a law enforcement agency.

3357 (d) "Mental health facility" has the same meaning as defined in Section [~~62A-15-602~~]  
3358 [26B-5-301](#).

3359 (e) (i) "Secure area" means any area into which certain persons are restricted from  
3360 transporting any firearm, ammunition, dangerous weapon, or explosive.

3361 (ii) A "secure area" may not include any area normally accessible to the public.

3362 (2) (a) A person in charge of the State Tax Commission or a correctional, law  
3363 enforcement, or mental health facility may establish secure areas within the facility and may  
3364 prohibit or control by rule any firearm, ammunition, dangerous weapon, or explosive.

3365 (b) Subsections (2)(a), (3), (4), (5), and (6) apply to higher education secure area  
3366 hearing rooms referred to in Subsections [53B-3-103](#)(2)(a)(ii) and (b).

3367 (3) At least one notice shall be prominently displayed at each entrance to an area in  
3368 which a firearm, ammunition, dangerous weapon, or explosive is restricted.

3369 (4) (a) Provisions shall be made to provide a secure weapons storage area so that  
3370 persons entering the secure area may store their weapons prior to entering the secure area.

3371 (b) The entity operating the facility shall be responsible for weapons while they are  
3372 stored in the storage area.

3373 (5) It is a defense to any prosecution under this section that the accused, in committing

3374 the act made criminal by this section, acted in conformity with the facility's rule or policy  
3375 established pursuant to this section.

3376 (6) (a) Any person who knowingly or intentionally transports into a secure area of a  
3377 facility any firearm, ammunition, or dangerous weapon is guilty of a third degree felony.

3378 (b) Any person violates Section 76-10-306 who knowingly or intentionally transports,  
3379 possesses, distributes, or sells any explosive in a secure area of a facility.

3380 Section 53. Section 76-8-311.3 is amended to read:

3381 **76-8-311.3. Items prohibited in correctional and mental health facilities --**

3382 **Penalties.**

3383 (1) As used in this section:

3384 (a) "Contraband" means any item not specifically prohibited for possession by  
3385 offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.

3386 (b) "Controlled substance" means any substance defined as a controlled substance  
3387 under Title 58, Chapter 37, Utah Controlled Substances Act.

3388 (c) "Correctional facility" means:

3389 (i) any facility operated by or contracting with the Department of Corrections to house  
3390 offenders in either a secure or nonsecure setting;

3391 (ii) any facility operated by a municipality or a county to house or detain criminal  
3392 offenders;

3393 (iii) any juvenile detention facility; and

3394 (iv) any building or grounds appurtenant to the facility or lands granted to the state,  
3395 municipality, or county for use as a correctional facility.

3396 (d) "Electronic cigarette product" means the same as that term is defined in Section  
3397 76-10-101.

3398 (e) "Medicine" means any prescription drug as defined in Title 58, Chapter 17b,  
3399 Pharmacy Practice Act, but does not include any controlled substances as defined in Title 58,  
3400 Chapter 37, Utah Controlled Substances Act.

3401 (f) "Mental health facility" means the same as that term is defined in Section  
3402 ~~62A-15-602~~ 26B-5-301.

3403 (g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

3404 (h) "Offender" means a person in custody at a correctional facility.

- 3405 (i) "Secure area" means the same as that term is defined in Section 76-8-311.1.
- 3406 (j) "Tobacco product" means the same as that term is defined in Section 76-10-101.
- 3407 (2) Notwithstanding Section 76-10-500, a correctional or mental health facility may
- 3408 provide by rule that no firearm, ammunition, dangerous weapon, implement of escape,
- 3409 explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any
- 3410 quantity may be:
- 3411 (a) transported to or upon a correctional or mental health facility;
- 3412 (b) sold or given away at any correctional or mental health facility;
- 3413 (c) given to or used by any offender at a correctional or mental health facility; or
- 3414 (d) knowingly or intentionally possessed at a correctional or mental health facility.
- 3415 (3) It is a defense to any prosecution under this section if the accused in committing the
- 3416 act made criminal by this section with respect to:
- 3417 (a) a correctional facility operated by the Department of Corrections, acted in
- 3418 conformity with departmental rule or policy;
- 3419 (b) a correctional facility operated by a municipality, acted in conformity with the
- 3420 policy of the municipality;
- 3421 (c) a correctional facility operated by a county, acted in conformity with the policy of
- 3422 the county; or
- 3423 (d) a mental health facility, acted in conformity with the policy of the mental health
- 3424 facility.
- 3425 (4) (a) An individual who transports to or upon a correctional facility, or into a secure
- 3426 area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of
- 3427 escape with intent to provide or sell it to any offender, is guilty of a second degree felony.
- 3428 (b) An individual who provides or sells to any offender at a correctional facility, or any
- 3429 detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous
- 3430 weapon, or implement of escape is guilty of a second degree felony.
- 3431 (c) An offender who possesses at a correctional facility, or a detainee who possesses at
- 3432 a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or
- 3433 implement of escape is guilty of a second degree felony.
- 3434 (d) An individual who, without the permission of the authority operating the
- 3435 correctional facility or the secure area of a mental health facility, knowingly possesses at a

3436 correctional facility or a secure area of a mental health facility any firearm, ammunition,  
3437 dangerous weapon, or implement of escape is guilty of a third degree felony.

3438 (e) An individual violates Section 76-10-306 who knowingly or intentionally  
3439 transports, possesses, distributes, or sells any explosive in a correctional facility or mental  
3440 health facility.

3441 (5) (a) An individual is guilty of a third degree felony who, without the permission of  
3442 the authority operating the correctional facility or secure area of a mental health facility,  
3443 knowingly transports to or upon a correctional facility or into a secure area of a mental health  
3444 facility any:

3445 (i) spirituous or fermented liquor;

3446 (ii) medicine, whether or not lawfully prescribed for the offender; or

3447 (iii) poison in any quantity.

3448 (b) An individual is guilty of a third degree felony who knowingly violates correctional  
3449 or mental health facility policy or rule by providing or selling to any offender at a correctional  
3450 facility or detainee within a secure area of a mental health facility any:

3451 (i) spirituous or fermented liquor;

3452 (ii) medicine, whether or not lawfully prescribed for the offender; or

3453 (iii) poison in any quantity.

3454 (c) An inmate is guilty of a third degree felony who, in violation of correctional or  
3455 mental health facility policy or rule, possesses at a correctional facility or in a secure area of a  
3456 mental health facility any:

3457 (i) spirituous or fermented liquor;

3458 (ii) medicine, other than medicine provided by the facility's health care providers in  
3459 compliance with facility policy; or

3460 (iii) poison in any quantity.

3461 (d) An individual is guilty of a class A misdemeanor who, with the intent to directly or  
3462 indirectly provide or sell any tobacco product, electronic cigarette product, or nicotine product  
3463 to an offender, directly or indirectly:

3464 (i) transports, delivers, or distributes any tobacco product, electronic cigarette product,  
3465 or nicotine product to an offender or on the grounds of any correctional facility;

3466 (ii) solicits, requests, commands, coerces, encourages, or intentionally aids another



3467 person to transport any tobacco product, electronic cigarette product, or nicotine product to an  
3468 offender or on any correctional facility, if the person is acting with the mental state required for  
3469 the commission of an offense; or

3470 (iii) facilitates, arranges, or causes the transport of any tobacco product, electronic  
3471 cigarette product, or nicotine product in violation of this section to an offender or on the  
3472 grounds of any correctional facility.

3473 (e) An individual is guilty of a class A misdemeanor who, without the permission of  
3474 the authority operating the correctional or mental health facility, fails to declare or knowingly  
3475 possesses at a correctional facility or in a secure area of a mental health facility any:

3476 (i) spirituous or fermented liquor;

3477 (ii) medicine; or

3478 (iii) poison in any quantity.

3479 (f) (i) Except as provided in Subsection (5)(f)(ii), an individual is guilty of a class B  
3480 misdemeanor who, without the permission of the authority operating the correctional facility,  
3481 knowingly engages in any activity that would facilitate the possession of any contraband by an  
3482 offender in a correctional facility.

3483 (ii) The provisions of Subsection (5)(d) regarding any tobacco product, electronic  
3484 cigarette product, or nicotine product take precedence over this Subsection (5)(f).

3485 (g) Exemptions may be granted for worship for Native American inmates pursuant to  
3486 Section [64-13-40](#).

3487 (6) The possession, distribution, or use of a controlled substance at a correctional  
3488 facility or in a secure area of a mental health facility shall be prosecuted in accordance with  
3489 Title 58, Chapter 37, Utah Controlled Substances Act.

3490 (7) The department shall make rules under Title 63G, Chapter 3, Utah Administrative  
3491 Rulemaking Act, to establish guidelines for providing written notice to visitors that providing  
3492 any tobacco product, electronic cigarette product, or nicotine product to offenders is a class A  
3493 misdemeanor.

3494 Section 54. Section **76-8-1202** is amended to read:

3495 **76-8-1202. Application of part.**

3496 (1) This part does not apply to offenses by providers under the state's Medicaid  
3497 program that are actionable under [~~Title 26, Chapter 20, Utah False Claims Act~~] Title 26B,

3498 Chapter 3, Part 11, Utah False Claims Act.

3499 (2) (a) Section [35A-1-503](#) applies to criminal actions taken under this part.

3500 (b) The repayment of funds or other benefits obtained in violation of the provisions of  
3501 this chapter shall not constitute a defense or grounds for dismissal of a criminal action.

3502 Section 55. Section **76-9-307** is amended to read:

3503 **76-9-307. Injury to service animals -- Penalties.**

3504 (1) As used in this section:

3505 (a) "Disability" has the same meaning as defined in Section [~~62A-5b-102~~] [26B-6-801](#).

3506 (b) "Search and rescue dog" means a dog:

3507 (i) with documented training to locate persons who are:

3508 (A) lost, missing, or injured; or

3509 (B) trapped under debris as the result of a natural or man-made event; and

3510 (ii) affiliated with an established search and rescue dog organization.

3511 (c) "Service animal" means:

3512 (i) a service animal as defined in Section [~~62A-5b-102~~] [26B-6-801](#); or

3513 (ii) a search and rescue dog.

3514 (2) It is a class A misdemeanor for a person to knowingly, intentionally, or recklessly  
3515 cause substantial bodily injury or death to a service animal.

3516 (3) It is a class A misdemeanor for a person who owns, keeps, harbors, or exercises  
3517 control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient  
3518 control over the animal to prevent it from causing:

3519 (a) any substantial bodily injury or the death of a service animal; or

3520 (b) the service animal's subsequent inability to function as a service animal as a result  
3521 of the animal's attacking, chasing, or harassing the service animal.

3522 (4) It is a class B misdemeanor for a person to chase or harass a service animal.

3523 (5) It is a class B misdemeanor for a person who owns, keeps, harbors, or exercises  
3524 control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient  
3525 control over the animal to prevent it from chasing or harassing a service animal while it is  
3526 carrying out its functions as a service animal, to the extent that the animal temporarily  
3527 interferes with the service animal's ability to carry out its functions.

3528 (6) (a) A service animal is exempt from quarantine or other animal control ordinances

3529 if it bites any person while it is subject to an offense under Subsection (2), (3), (4), or (5).

3530 (b) The owner of the service animal or the person with a disability whom the service  
3531 animal serves shall make the animal available for examination at any reasonable time and shall  
3532 notify the local health officer if the animal exhibits any abnormal behavior.

3533 (7) In addition to any other penalty, a person convicted of any violation of this section  
3534 is liable for restitution to the owner of the service animal or the person with a disability whom  
3535 the service animal serves for the replacement, training, and veterinary costs incurred as a result  
3536 of the violation of this section.

3537 (8) If the act committed under this section amounts to an offense subject to a greater  
3538 penalty under another provision of Title 76, Utah Criminal Code, than is provided under this  
3539 section, this section does not prohibit prosecution and sentencing for the more serious offense.

3540 Section 56. Section **76-9-704** is amended to read:

3541 **76-9-704. Abuse or desecration of a dead human body -- Penalties.**

3542 (1) For purposes of this section, "dead human body" includes any part of a human body  
3543 in any stage of decomposition, including ancient human remains as defined in Section [9-8-302](#).

3544 (2) A person is guilty of abuse or desecration of a dead human body if the person  
3545 intentionally and unlawfully:

3546 (a) fails to report the finding of a dead human body to a local law enforcement agency;

3547 (b) disturbs, moves, removes, conceals, or destroys a dead human body or any part of  
3548 it;

3549 (c) disinters a buried or otherwise interred dead human body, without authority of a  
3550 court order;

3551 (d) dismembers a dead human body to any extent, or damages or detaches any part or  
3552 portion of a dead human body; or

3553 (e) (i) commits or attempts to commit upon any dead human body any act of sexual  
3554 penetration, regardless of the sex of the actor and of the dead human body; and

3555 (ii) as used in Subsection (2)(e)(i), "sexual penetration" means penetration, however  
3556 slight, of the genital or anal opening by any object, substance, instrument, or device, including  
3557 a part of the human body, or penetration involving the genitals of the actor and the mouth of  
3558 the dead human body.

3559 (3) A person does not violate this section if when that person directs or carries out

3560 procedures regarding a dead human body, that person complies with:

3561 (a) Title 9, Chapter 8, Part 3, Antiquities;

3562 (b) [~~Title 26, Chapter 4, Utah Medical Examiner Act~~] Title 26B, Chapter 8, Part 2,  
3563 Utah Medical Examiner;

3564 (c) [~~Title 26, Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8,  
3565 Part 3, Revised Uniform Anatomical Gift Act;

3566 (d) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes;

3567 (e) Title 58, Chapter 9, Funeral Services Licensing Act; or

3568 (f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to  
3569 practice medicine.

3570 (4) (a) Failure to report the finding of a dead human body as required under Subsection  
3571 (2)(a) is a class B misdemeanor.

3572 (b) Abuse or desecration of a dead human body as described in Subsections (2)(b)  
3573 through (e) is a third degree felony.

3574 Section 57. Section **76-10-101** is amended to read:

3575 **76-10-101. Definitions.**

3576 As used in this part:

3577 (1) (a) "Alternative nicotine product" means a product, other than a cigarette, a  
3578 counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a  
3579 tobacco product, that:

3580 (i) contains nicotine;

3581 (ii) is intended for human consumption;

3582 (iii) is not purchased with a prescription from a licensed physician; and

3583 (iv) is not approved by the United States Food and Drug Administration as nicotine  
3584 replacement therapy.

3585 (b) "Alternative nicotine product" includes:

3586 (i) pure nicotine;

3587 (ii) snortable nicotine;

3588 (iii) dissolvable salts, orbs, pellets, sticks, or strips; and

3589 (iv) nicotine-laced food and beverage.

3590 (c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that

3591 contains naturally occurring nicotine.

3592 (2) "Cigar" means a product that contains nicotine, is intended to be burned under  
3593 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in  
3594 any substance containing tobacco, other than any roll of tobacco that is a cigarette.

3595 (3) "Cigarette" means a product that contains nicotine, is intended to be heated or  
3596 burned under ordinary conditions of use, and consists of:

3597 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

3598 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of  
3599 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to  
3600 be offered to, or purchased by, consumers as a cigarette described in Subsection (3)(a).

3601 (4) (a) "Electronic cigarette" means:

3602 (i) any electronic oral device:

3603 (A) that provides an aerosol or a vapor of nicotine or other substance; and

3604 (B) which simulates smoking through the use or inhalation of the device;

3605 (ii) a component of the device described in Subsection (4)(a)(i); or

3606 (iii) an accessory sold in the same package as the device described in Subsection

3607 (4)(a)(i).

3608 (b) "Electronic cigarette" includes an oral device that is:

3609 (i) composed of a heating element, battery, or electronic circuit; and

3610 (ii) marketed, manufactured, distributed, or sold as:

3611 (A) an e-cigarette;

3612 (B) an e-cigar;

3613 (C) an e-pipe; or

3614 (D) any other product name or descriptor, if the function of the product meets the  
3615 definition of Subsection (4)(a).

3616 (c) "Electronic cigarette" does not mean a medical cannabis device, as that term is  
3617 defined in Section [~~26-61a-102~~] [26B-4-201](#).

3618 (5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette  
3619 substance, or a prefilled electronic cigarette.

3620 (6) "Electronic cigarette substance" means any substance, including liquid containing  
3621 nicotine, used or intended for use in an electronic cigarette.

3622 (7) (a) "Flavored electronic cigarette product" means an electronic cigarette product  
3623 that has a taste or smell that is distinguishable by an ordinary consumer either before or during  
3624 use or consumption of the electronic cigarette product.

3625 (b) "Flavored electronic cigarette product" includes an electronic cigarette product that  
3626 has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic  
3627 beverage, herb, or spice.

3628 (c) "Flavored electronic cigarette product" does not include an electronic cigarette  
3629 product that:

3630 (i) has a taste or smell of only tobacco, mint, or menthol; or

3631 (ii) has been approved by an order granting a premarket tobacco product application of  
3632 the electronic cigarette product by the United States Food and Drug Administration under 21  
3633 U.S.C. Sec. 387j(c)(1)(A)(i).

3634 (8) "Nicotine" means a poisonous, nitrogen containing chemical that is made  
3635 synthetically or derived from tobacco or other plants.

3636 (9) "Nicotine product" means an alternative nicotine product or a nontherapeutic  
3637 nicotine product.

3638 (10) (a) "Nontherapeutic nicotine device" means a device that:

3639 (i) has a pressurized canister that is used to administer nicotine to the user through  
3640 inhalation or intranasally;

3641 (ii) is not purchased with a prescription from a licensed physician; and

3642 (iii) is not approved by the United States Food and Drug Administration as nicotine  
3643 replacement therapy.

3644 (b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a  
3645 nontherapeutic nicotine nasal spray.

3646 (11) "Nontherapeutic nicotine device substance" means a substance that:

3647 (a) contains nicotine;

3648 (b) is sold in a cartridge for use in a nontherapeutic nicotine device;

3649 (c) is not purchased with a prescription from a licensed physician; and

3650 (d) is not approved by the United States Food and Drug Administration as nicotine  
3651 replacement therapy.

3652 (12) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a

3653 nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.

3654 (13) "Place of business" includes:

3655 (a) a shop;

3656 (b) a store;

3657 (c) a factory;

3658 (d) a public garage;

3659 (e) an office;

3660 (f) a theater;

3661 (g) a recreation hall;

3662 (h) a dance hall;

3663 (i) a poolroom;

3664 (j) a cafe;

3665 (k) a cafeteria;

3666 (l) a cabaret;

3667 (m) a restaurant;

3668 (n) a hotel;

3669 (o) a lodging house;

3670 (p) a streetcar;

3671 (q) a bus;

3672 (r) an interurban or railway passenger coach;

3673 (s) a waiting room; and

3674 (t) any other place of business.

3675 (14) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled  
3676 with an electronic cigarette substance.

3677 (15) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device  
3678 that is sold prefilled with a nontherapeutic nicotine device substance.

3679 (16) "Retail tobacco specialty business" means the same as that term is defined in  
3680 Section ~~[26-62-102]~~ [26B-7-501](#).

3681 (17) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other  
3682 lighted smoking equipment.

3683 (18) (a) "Tobacco paraphernalia" means equipment, product, or material of any kind

3684 that is used, intended for use, or designed for use to package, repackage, store, contain,  
3685 conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic cigarette  
3686 substance, or a nontherapeutic nicotine device substance into the human body.

3687 (b) "Tobacco paraphernalia" includes:

3688 (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without  
3689 screens, permanent screens, hashish heads, or punctured metal bowls;

3690 (ii) water pipes;

3691 (iii) carburetion tubes and devices;

3692 (iv) smoking and carburetion masks;

3693 (v) roach clips, meaning objects used to hold burning material, such as a cigarette, that  
3694 has become too small or too short to be held in the hand;

3695 (vi) chamber pipes;

3696 (vii) carburetor pipes;

3697 (viii) electric pipes;

3698 (ix) air-driven pipes;

3699 (x) chillums;

3700 (xi) bongs; and

3701 (xii) ice pipes or chillers.

3702 (c) "Tobacco paraphernalia" does not include matches or lighters.

3703 (19) "Tobacco product" means:

3704 (a) a cigar;

3705 (b) a cigarette; or

3706 (c) tobacco in any form, including:

3707 (i) chewing tobacco; and

3708 (ii) any substitute for tobacco, including flavoring or additives to tobacco.

3709 (20) "Tobacco retailer" means:

3710 (a) a general tobacco retailer, as that term is defined in Section ~~[26-62-102]~~ [26B-7-501](#);

3711 or

3712 (b) a retail tobacco specialty business.

3713 Section 58. Section **76-10-526** is amended to read:

3714 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**



3715 **Exemption for concealed firearm permit holders and law enforcement officers.**

3716 (1) For purposes of this section, "valid permit to carry a concealed firearm" does not  
3717 include a temporary permit issued under Section 53-5-705.

3718 (2) (a) To establish personal identification and residence in this state for purposes of  
3719 this part, a dealer shall require an individual receiving a firearm to present one photo  
3720 identification on a form issued by a governmental agency of the state.

3721 (b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as  
3722 proof of identification for the purpose of establishing personal identification and residence in  
3723 this state as required under this Subsection (2).

3724 (3) (a) A criminal history background check is required for the sale of a firearm by a  
3725 licensed firearm dealer in the state.

3726 (b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms  
3727 Licensee.

3728 (4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a  
3729 criminal background check, on a form provided by the bureau.

3730 (b) The form shall contain the following information:

3731 (i) the dealer identification number;

3732 (ii) the name and address of the individual receiving the firearm;

3733 (iii) the date of birth, height, weight, eye color, and hair color of the individual  
3734 receiving the firearm; and

3735 (iv) the social security number or any other identification number of the individual  
3736 receiving the firearm.

3737 (5) (a) The dealer shall send the information required by Subsection (4) to the bureau  
3738 immediately upon its receipt by the dealer.

3739 (b) A dealer may not sell or transfer a firearm to an individual until the dealer has  
3740 provided the bureau with the information in Subsection (4) and has received approval from the  
3741 bureau under Subsection (7).

3742 (6) The dealer shall make a request for criminal history background information by  
3743 telephone or other electronic means to the bureau and shall receive approval or denial of the  
3744 inquiry by telephone or other electronic means.

3745 (7) When the dealer calls for or requests a criminal history background check, the

3746 bureau shall:

3747 (a) review the criminal history files, including juvenile court records, and the  
3748 temporary restricted file created under Section 53-5c-301, to determine if the individual is  
3749 prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

3750 (b) inform the dealer that:

3751 (i) the records indicate the individual is prohibited; or

3752 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;

3753 (c) provide the dealer with a unique transaction number for that inquiry; and

3754 (d) provide a response to the requesting dealer during the call for a criminal  
3755 background check, or by return call, or other electronic means, without delay, except in case of  
3756 electronic failure or other circumstances beyond the control of the bureau, the bureau shall  
3757 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the  
3758 delay.

3759 (8) (a) The bureau may not maintain any records of the criminal history background  
3760 check longer than 20 days from the date of the dealer's request, if the bureau determines that  
3761 the individual receiving the firearm is not prohibited from purchasing, possessing, or  
3762 transferring the firearm under state or federal law.

3763 (b) However, the bureau shall maintain a log of requests containing the dealer's federal  
3764 firearms number, the transaction number, and the transaction date for a period of 12 months.

3765 (9) (a) If the criminal history background check discloses information indicating that  
3766 the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or  
3767 transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction  
3768 where the individual resides.

3769 (b) Subsection (9)(a) does not apply to an individual prohibited from purchasing a  
3770 firearm solely due to placement on the temporary restricted list under Section 53-5c-301.

3771 (c) A law enforcement agency that receives information from the bureau under  
3772 Subsection (9)(a) shall provide a report before August 1 of each year to the bureau that  
3773 includes:

3774 (i) based on the information the bureau provides to the law enforcement agency under  
3775 Subsection (9)(a), the number of cases that involve an individual who is prohibited from  
3776 purchasing, possessing, or transferring a firearm as a result of a conviction for an offense

3777 involving domestic violence; and

3778 (ii) of the cases described in Subsection (9)(c)(i):

3779 (A) the number of cases the law enforcement agency investigates; and

3780 (B) the number of cases the law enforcement agency investigates that result in a  
3781 criminal charge.

3782 (d) The bureau shall:

3783 (i) compile the information from the reports described in Subsection (9)(c);

3784 (ii) omit or redact any identifying information in the compilation; and

3785 (iii) submit the compilation to the Law Enforcement and Criminal Justice Interim  
3786 Committee before November 1 of each year.

3787 (10) If an individual is denied the right to purchase a firearm under this section, the  
3788 individual may review the individual's criminal history information and may challenge or  
3789 amend the information as provided in Section 53-10-108.

3790 (11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah  
3791 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all  
3792 records provided by the bureau under this part are in conformance with the requirements of the  
3793 Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

3794 (12) (a) A dealer shall collect a criminal history background check fee for the sale of a  
3795 firearm under this section.

3796 (b) The fee described under Subsection (12)(a) remains in effect until changed by the  
3797 bureau through the process described in Section 63J-1-504.

3798 (c) (i) The dealer shall forward at one time all fees collected for criminal history  
3799 background checks performed during the month to the bureau by the last day of the month  
3800 following the sale of a firearm.

3801 (ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover  
3802 the cost of administering and conducting the criminal history background check program.

3803 (13) An individual with a concealed firearm permit issued under Title 53, Chapter 5,  
3804 Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee  
3805 required in this section for the purchase of a firearm if:

3806 (a) the individual presents the individual's concealed firearm permit to the dealer prior  
3807 to purchase of the firearm; and

3808 (b) the dealer verifies with the bureau that the individual's concealed firearm permit is  
3809 valid.

3810 (14) (a) A law enforcement officer, as defined in Section [53-13-103](#), is exempt from  
3811 the background check fee required in this section for the purchase of a personal firearm to be  
3812 carried while off-duty if the law enforcement officer verifies current employment by providing  
3813 a letter of good standing from the officer's commanding officer and current law enforcement  
3814 photo identification.

3815 (b) Subsection (14)(a) may only be used by a law enforcement officer to purchase a  
3816 personal firearm once in a 24-month period.

3817 (15) A dealer engaged in the business of selling, leasing, or otherwise transferring any  
3818 firearm shall:

3819 (a) make the firearm safety brochure described in Subsection [~~62A-15-103(3)~~]  
3820 [26B-5-102\(3\)](#) available to a customer free of charge; and

3821 (b) at the time of purchase, distribute a cable-style gun lock provided to the dealer  
3822 under Subsection [~~62A-15-103(3)~~] [26B-5-102\(3\)](#) to a customer purchasing a shotgun, short  
3823 barreled shotgun, short barreled rifle, rifle, or another firearm that federal law does not require  
3824 be accompanied by a gun lock at the time of purchase.

3825 Section 59. Section **76-10-528** is amended to read:

3826 **76-10-528. Carrying a dangerous weapon while under influence of alcohol or**  
3827 **drugs unlawful.**

3828 (1) It is a class B misdemeanor for an actor to carry a dangerous weapon while under  
3829 the influence of:

3830 (a) alcohol as determined by the actor's blood or breath alcohol concentration in  
3831 accordance with Subsections [41-6a-502\(1\)\(a\)](#) through (c); or

3832 (b) a controlled substance as defined in Section [58-37-2](#).

3833 (2) This section does not apply to:

3834 (a) an actor carrying a dangerous weapon that is either securely encased, as defined in  
3835 this part, or not within such close proximity and in such a manner that it can be retrieved and  
3836 used as readily as if carried on the person;

3837 (b) an actor who uses or threatens to use force in compliance with Section [76-2-402](#);

3838 (c) an actor carrying a dangerous weapon in the actor's residence or the residence of

3839 another with the consent of the individual who is lawfully in possession;

3840 (d) an actor under the influence of cannabis or a cannabis product, as those terms are  
3841 defined in Section [~~26-61a-102~~] 26B-4-201, if the actor's use of the cannabis or cannabis  
3842 product complies with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter  
3843 4, Part 2, Cannabinoid Research and Medical Cannabis; or

3844 (e) an actor who:

3845 (i) has a valid prescription for a medication approved by the federal Food and Drug  
3846 Administration for the treatment of attention deficit disorder or attention deficit hyperactivity  
3847 disorder; and

3848 (ii) takes the medication described in Subsection (2)(e)(i) as prescribed.

3849 (3) It is not a defense to prosecution under this section that the actor:

3850 (a) is licensed in the pursuit of wildlife of any kind; or

3851 (b) has a valid permit to carry a concealed firearm.

3852 Section 60. Section **76-10-1311** is amended to read:

3853 **76-10-1311. Mandatory testing -- Retention of offender medical file -- Civil**  
3854 **liability.**

3855 (1) A person who has entered a plea of guilty, a plea of no contest, a plea of guilty and  
3856 mentally ill, or been found guilty for violation of Section 76-10-1302, 76-10-1303, or  
3857 76-10-1313 shall be required to submit to a mandatory test to determine if the offender is an  
3858 HIV positive individual. The mandatory test shall be required and conducted prior to  
3859 sentencing.

3860 (2) If the mandatory test has not been conducted prior to sentencing, and the convicted  
3861 offender is already confined in a county jail or state prison, such person shall be tested while in  
3862 confinement.

3863 (3) The local law enforcement agency shall cause the blood specimen of the offender as  
3864 defined in Subsection (1) confined in county jail to be taken and tested.

3865 (4) The Department of Corrections shall cause the blood specimen of the offender  
3866 defined in Subsection (1) confined in any state prison to be taken and tested.

3867 (5) The local law enforcement agency shall collect and retain in the offender's medical  
3868 file the following data:

3869 (a) the HIV infection test results;

3870 (b) a copy of the written notice as provided in Section 76-10-1312;

3871 (c) photographic identification; and

3872 (d) fingerprint identification.

3873 (6) The local law enforcement agency shall classify the medical file as a private record

3874 pursuant to Subsection 63G-2-302(1)(b) or a controlled record pursuant to Section 63G-2-304.

3875 (7) The person tested shall be responsible for the costs of testing, unless the person is  
3876 indigent. The costs will then be paid by the local law enforcement agency or the Department of  
3877 Corrections from the General Fund.

3878 (8) (a) The laboratory performing testing shall report test results to only designated  
3879 officials in the Department of Corrections, the Department of ~~[Health]~~ Health and Human  
3880 Services, and the local law enforcement agency submitting the blood specimen.

3881 (b) Each department or agency shall designate those officials by written policy.

3882 (c) Designated officials may release information identifying an offender under Section  
3883 76-10-1302, 76-10-1303, or 76-10-1313 who has tested HIV positive as provided under  
3884 Subsection 63G-2-202(1) and for purposes of prosecution pursuant to Section 76-10-1309.

3885 (9) (a) An employee of the local law enforcement agency, the Department of  
3886 Corrections, or the Department of ~~[Health]~~ Health and Human Services who discloses the HIV  
3887 test results under this section is not civilly liable except when disclosure constitutes fraud or  
3888 willful misconduct as provided in Section 63G-7-202.

3889 (b) An employee of the local law enforcement agency, the Department of Corrections,  
3890 or the Department of ~~[Health]~~ Health and Human Services who discloses the HIV test results  
3891 under this section is not civilly or criminally liable, except when disclosure constitutes a  
3892 knowing violation of Section 63G-2-801.

3893 (10) When the medical file is released as provided in Section 63G-2-803, the local law  
3894 enforcement agency, the Department of Corrections, or the Department of ~~[Health]~~ Health and  
3895 Human Services or its officers or employees are not liable for damages for release of the  
3896 medical file.

3897 Section 61. Section 76-10-1312 is amended to read:

3898 **76-10-1312. Notice to offender of HIV positive test results.**

3899 (1) A person convicted under Section 76-10-1302, 76-10-1303, or 76-10-1313 who has  
3900 tested positive for the HIV infection shall be notified of the test results in person by:

- 3901 (a) the local law enforcement agency;
- 3902 (b) the Department of Corrections, for offenders confined in any state prison;
- 3903 (c) the state Department of ~~[Health]~~ Health and Human Services; or
- 3904 (d) an authorized representative of any of the agencies listed in this Subsection (1).

3905 (2) The notice under Subsection (1) shall contain the signature of the HIV positive  
3906 person, indicating the person's receipt of the notice, the name and signature of the person  
3907 providing the notice, and:

- 3908 (a) the date of the test;
- 3909 (b) the positive test results;
- 3910 (c) the name of the HIV positive individual; and
- 3911 (d) the following language:

3912 "A person who has been convicted of prostitution under Section [76-10-1302](#),  
3913 patronizing a prostitute under Section [76-10-1303](#), or sexual solicitation under Section  
3914 [76-10-1313](#) after being tested and diagnosed as an HIV positive individual and either had  
3915 actual knowledge that the person is an HIV positive individual or the person has previously  
3916 been convicted of any of the criminal offenses listed above is guilty of a third degree felony  
3917 under Section [76-10-1309](#)."

3918 (3) Failure to provide this notice, or to provide the notice in the manner or form  
3919 prescribed under this section, does not create any civil liability and does not create a defense to  
3920 any prosecution under this part.

3921 (4) Upon conviction under Section [76-10-1309](#), and as a condition of probation, the  
3922 offender shall receive treatment and counseling for HIV infection and drug abuse as provided  
3923 in [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5,  
3924 Health Care -- Substance Use and Mental Health.

3925 Section 62. Section **76-10-1602** is amended to read:

3926 **76-10-1602. Definitions.**

3927 As used in this part:

3928 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,  
3929 business trust, association, or other legal entity, and any union or group of individuals  
3930 associated in fact although not a legal entity, and includes illicit as well as licit entities.

3931 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the

3932 commission of at least three episodes of unlawful activity, which episodes are not isolated, but  
3933 have the same or similar purposes, results, participants, victims, or methods of commission, or  
3934 otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall  
3935 demonstrate continuing unlawful conduct and be related either to each other or to the  
3936 enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have  
3937 occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful  
3938 activity as defined by this part shall have occurred within five years of the commission of the  
3939 next preceding act alleged as part of the pattern.

3940 (3) "Person" includes any individual or entity capable of holding a legal or beneficial  
3941 interest in property, including state, county, and local governmental entities.

3942 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request,  
3943 command, encourage, or intentionally aid another person to engage in conduct which would  
3944 constitute any offense described by the following crimes or categories of crimes, or to attempt  
3945 or conspire to engage in an act which would constitute any of those offenses, regardless of  
3946 whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor  
3947 or a felony:

3948 (a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized  
3949 Recording Practices Act;

3950 (b) any act prohibited by the criminal provisions of Title 19, Environmental Quality  
3951 Code, Sections [19-1-101](#) through [19-7-109](#);

3952 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary  
3953 purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources  
3954 Code of Utah, or Section [23-20-4](#);

3955 (d) false claims for medical benefits, kickbacks, and any other act prohibited by [~~Title~~  
3956 ~~26, Chapter 20, Utah False Claims Act, Sections [26-20-1](#) through [26-20-12](#)] Title 26B, Chapter  
3957 3, Part 11, Utah False Claims Act, Sections [26B-3-1101](#) through [26B-3-1112](#);~~

3958 (e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal  
3959 Offenses and Procedure Act;

3960 (f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform  
3961 Land Sales Practices Act;

3962 (g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah



3963 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act,  
3964 Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d,  
3965 Clandestine Drug Lab Act;

3966 (h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform  
3967 Securities Act;

3968 (i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah  
3969 Procurement Code;

3970 (j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;

3971 (k) a threat of terrorism, Section 76-5-107.3;

3972 (l) a criminal homicide offense, as described in Section 76-5-201;

3973 (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;

3974 (n) human trafficking, human trafficking of a child, human smuggling, or aggravated  
3975 human trafficking, Sections 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-309, and  
3976 76-5-310;

3977 (o) sexual exploitation of a minor or aggravated sexual exploitation of a minor,  
3978 Sections 76-5b-201 and 76-5b-201.1;

3979 (p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;

3980 (q) causing a catastrophe, Section 76-6-105;

3981 (r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;

3982 (s) burglary of a vehicle, Section 76-6-204;

3983 (t) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;

3984 (u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;

3985 (v) theft, Section 76-6-404;

3986 (w) theft by deception, Section 76-6-405;

3987 (x) theft by extortion, Section 76-6-406;

3988 (y) receiving stolen property, Section 76-6-408;

3989 (z) theft of services, Section 76-6-409;

3990 (aa) forgery, Section 76-6-501;

3991 (bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3, 76-6-506.5, and  
3992 76-6-506.6;

3993 (cc) deceptive business practices, Section 76-6-507;

- 3994 (dd) bribery or receiving bribe by person in the business of selection, appraisal, or
- 3995 criticism of goods, Section 76-6-508;
- 3996 (ee) bribery of a labor official, Section 76-6-509;
- 3997 (ff) defrauding creditors, Section 76-6-511;
- 3998 (gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;
- 3999 (hh) unlawful dealing with property by fiduciary, Section 76-6-513;
- 4000 (ii) bribery or threat to influence contest, Section 76-6-514;
- 4001 (jj) making a false credit report, Section 76-6-517;
- 4002 (kk) criminal simulation, Section 76-6-518;
- 4003 (ll) criminal usury, Section 76-6-520;
- 4004 (mm) fraudulent insurance act, Section 76-6-521;
- 4005 (nn) retail theft, Section 76-6-602;
- 4006 (oo) computer crimes, Section 76-6-703;
- 4007 (pp) identity fraud, Section 76-6-1102;
- 4008 (qq) mortgage fraud, Section 76-6-1203;
- 4009 (rr) sale of a child, Section 76-7-203;
- 4010 (ss) bribery to influence official or political actions, Section 76-8-103;
- 4011 (tt) threats to influence official or political action, Section 76-8-104;
- 4012 (uu) receiving bribe or bribery by public servant, Section 76-8-105;
- 4013 (vv) receiving bribe or bribery for endorsement of person as public servant, Section
- 4014 76-8-106;
- 4015 (ww) official misconduct, Sections 76-8-201 and 76-8-202;
- 4016 (xx) obstruction of justice, Section 76-8-306;
- 4017 (yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- 4018 (zz) false or inconsistent material statements, Section 76-8-502;
- 4019 (aaa) false or inconsistent statements, Section 76-8-503;
- 4020 (bbb) written false statements, Section 76-8-504;
- 4021 (ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
- 4022 (ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;
- 4023 (eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- 4024 (fff) tampering with evidence, Section 76-8-510.5;

4025 (ggg) falsification or alteration of government record, Section 76-8-511, if the record is  
4026 a record described in Title 20A, Election Code, Title 36, Chapter 11, Lobbyist Disclosure and  
4027 Regulation Act, or Title 36, Chapter 11a, Local Government and Board of Education Lobbyist  
4028 Disclosure and Regulation Act;

4029 (hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or  
4030 76-8-1205;

4031 (iii) unemployment insurance fraud, Section 76-8-1301;

4032 (jjj) intentionally or knowingly causing one animal to fight with another, Subsection  
4033 76-9-301(2)(d) or (e), or Section 76-9-301.1;

4034 (kkk) possession, use, or removal of explosives, chemical, or incendiary devices or  
4035 parts, Section 76-10-306;

4036 (lll) delivery to common carrier, mailing, or placement on premises of an incendiary  
4037 device, Section 76-10-307;

4038 (mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;

4039 (nnn) unlawful marking of pistol or revolver, Section 76-10-521;

4040 (ooo) alteration of number or mark on pistol or revolver, Section 76-10-522;

4041 (ppp) forging or counterfeiting trademarks, trade name, or trade device, Section  
4042 76-10-1002;

4043 (qqq) selling goods under counterfeited trademark, trade name, or trade devices,  
4044 Section 76-10-1003;

4045 (rrr) sales in containers bearing registered trademark of substituted articles, Section  
4046 76-10-1004;

4047 (sss) selling or dealing with article bearing registered trademark or service mark with  
4048 intent to defraud, Section 76-10-1006;

4049 (ttt) gambling, Section 76-10-1102;

4050 (uuu) gambling fraud, Section 76-10-1103;

4051 (vvv) gambling promotion, Section 76-10-1104;

4052 (www) possessing a gambling device or record, Section 76-10-1105;

4053 (xxx) confidence game, Section 76-10-1109;

4054 (yyy) distributing pornographic material, Section 76-10-1204;

4055 (zzz) inducing acceptance of pornographic material, Section 76-10-1205;

- 4056 (aaaa) dealing in harmful material to a minor, Section [76-10-1206](#);
- 4057 (bbbb) distribution of pornographic films, Section [76-10-1222](#);
- 4058 (cccc) indecent public displays, Section [76-10-1228](#);
- 4059 (dddd) prostitution, Section [76-10-1302](#);
- 4060 (eeee) aiding prostitution, Section [76-10-1304](#);
- 4061 (ffff) exploiting prostitution, Section [76-10-1305](#);
- 4062 (gggg) aggravated exploitation of prostitution, Section [76-10-1306](#);
- 4063 (hhhh) communications fraud, Section [76-10-1801](#);
- 4064 (iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and
- 4065 Currency Transaction Reporting Act;
- 4066 (jjjj) vehicle compartment for contraband, Section [76-10-2801](#);
- 4067 (kkkk) any act prohibited by the criminal provisions of the laws governing taxation in
- 4068 this state; and
- 4069 (llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C.
- 4070 Sec. 1961(1)(B), (C), and (D).

4071 Section 63. Section **76-10-2204** is amended to read:

4072 **76-10-2204. Duty to report drug diversion.**

4073 (1) As used in this section:

4074 (a) "Diversion" means a practitioner's transfer of a significant amount of drugs to  
4075 another for an unlawful purpose.

4076 (b) "Drug" means a Schedule II or Schedule III controlled substance, as defined in  
4077 Section [58-37-4](#), that is an opiate.

4078 (c) "HIPAA" means the same as that term is defined in Section [~~26-18-17~~] [26B-3-126](#).

4079 (d) "Opiate" means the same as that term is defined in Section [58-37-2](#).

4080 (e) "Practitioner" means an individual:

4081 (i) licensed, registered, or otherwise authorized by the appropriate jurisdiction to  
4082 administer, dispense, distribute, or prescribe a drug in the course of professional practice; or

4083 (ii) employed by a person who is licensed, registered, or otherwise authorized by the  
4084 appropriate jurisdiction to administer, dispense, distribute, or prescribe a drug in the course of  
4085 professional practice or standard operations.

4086 (f) "Significant amount" means an aggregate amount equal to, or more than, 500

4087 morphine milligram equivalents calculated in accordance with guidelines developed by the  
4088 Centers for Disease Control and Prevention (CDC).

4089 (2) An individual is guilty of a class B misdemeanor if the individual:

4090 (a) knows that a practitioner is involved in diversion; and

4091 (b) knowingly fails to report the diversion to a peace officer or law enforcement  
4092 agency.

4093 (3) Subsection (2) does not apply to the extent that an individual is prohibited from  
4094 reporting by 42 C.F.R. Part 2 or HIPAA.

4095 Section 64. Section **76-10-3105** is amended to read:

4096 **76-10-3105. Exempt activities.**

4097 (1) This act may not be construed to prohibit:

4098 (a) the activities of any public utility to the extent that those activities are subject to  
4099 regulation by the public service commission, the state or federal department of transportation,  
4100 the federal energy regulatory commission, the federal communications commission, the  
4101 interstate commerce commission, or successor agencies;

4102 (b) the activities of any insurer, insurance producer, independent insurance adjuster, or  
4103 rating organization including, but not limited to, making or participating in joint underwriting  
4104 or reinsurance arrangements, to the extent that those activities are subject to regulation by the  
4105 commissioner of insurance;

4106 (c) the activities of securities dealers, issuers, or agents, to the extent that those  
4107 activities are subject to regulation under the laws of either this state or the United States;

4108 (d) the activities of any state or national banking institution, to the extent that the  
4109 activities are regulated or supervised by state government officers or agencies under the  
4110 banking laws of this state or by federal government officers or agencies under the banking laws  
4111 of the United States;

4112 (e) the activities of any state or federal savings and loan association to the extent that  
4113 those activities are regulated or supervised by state government officers or agencies under the  
4114 banking laws of this state or federal government officers or agencies under the banking laws of  
4115 the United States;

4116 (f) the activities of a political subdivision to the extent authorized or directed by state  
4117 law, consistent with the state action doctrine of federal antitrust law; or

4118 (g) the activities of an emergency medical service provider licensed under [~~Title 26,~~  
4119 ~~Chapter 8a, Utah Emergency Medical Services System Act~~] Title 26B, Chapter 4, Part 1, Utah  
4120 Emergency Medical Services System, to the extent that those activities are regulated by state  
4121 government officers or agencies under that act.

4122 (2) (a) The labor of a human being is not a commodity or article of commerce.

4123 (b) Nothing contained in the antitrust laws shall be construed to forbid the existence  
4124 and operation of labor, agricultural, or horticultural organizations, instituted for the purpose of  
4125 mutual help and not having capital stock or conducted for profit, or to forbid or restrain  
4126 individual members of these organizations from lawfully carrying out their legitimate objects;  
4127 nor may these organizations or membership in them be held to be illegal combinations or  
4128 conspiracies in restraint of trade under the antitrust laws.

4129 (3) (a) As used in this section, an entity is also a municipality if the entity was formed  
4130 under Title 11, Chapter 13, Interlocal Cooperation Act, prior to January 1, 1981, and the entity  
4131 is:

- 4132 (i) a project entity as defined in Section [11-13-103](#);
- 4133 (ii) an electric interlocal entity as defined in Section [11-13-103](#); or
- 4134 (iii) an energy services interlocal entity as defined in Section [11-13-103](#).

4135 (b) The activities of the entities under Subsection (3)(a) are authorized or directed by  
4136 state law.

4137 Section 65. Section ~~77-15-6~~ is amended to read:

4138 **77-15-6. Commitment on finding of incompetency to stand trial -- Subsequent**  
4139 **hearings -- Notice to prosecuting attorneys.**

4140 (1) (a) Except as provided in Subsection (5), if after a hearing a court finds a defendant  
4141 to be incompetent to proceed, the court shall order the defendant committed to the department  
4142 for restoration treatment.

4143 (b) The court may recommend but may not order placement of the defendant. The  
4144 court may, however, order that the defendant be placed in a secure setting rather than a  
4145 nonsecure setting. Following restoration screening, the department's designee shall designate  
4146 and inform the court of the specific placement and restoration treatment program for the  
4147 defendant.

4148 (c) Restoration treatment shall be of sufficient scope and duration to:

- 4149 (i) restore the individual to competency; or
- 4150 (ii) determine whether the individual can be restored to competency in the foreseeable
- 4151 future.
- 4152 (d) A defendant whom a court determines is incompetent to proceed may not be held
- 4153 for restoration treatment longer than:
  - 4154 (i) the time reasonably necessary to determine whether there is a substantial probability
  - 4155 that the defendant will become competent to stand trial in the foreseeable future, or that the
  - 4156 defendant cannot become competent to stand trial in the foreseeable future; and
  - 4157 (ii) the maximum period of incarceration that the defendant could receive if the
  - 4158 defendant were convicted of the most severe offense of the offenses charged.
- 4159 (2) (a) A defendant who is receiving restoration treatment shall receive a progress
- 4160 toward competency evaluation, by:
  - 4161 (i) a forensic evaluator, designated by the department; and
  - 4162 (ii) an additional forensic evaluator, if requested by a party and paid for by the
  - 4163 requesting party.
- 4164 (b) A forensic evaluator shall complete a progress toward competency evaluation and
- 4165 submit a report within 90 days after the day on which the forensic evaluator receives the
- 4166 commitment order. If the forensic evaluator is unable to complete the report within 90 days, the
- 4167 forensic evaluator shall provide to the court and counsel a summary progress statement that
- 4168 informs the court that additional time is necessary to complete the report, in which case the
- 4169 examiner shall have up to an additional 45 days to provide the full report.
- 4170 (c) The report shall:
  - 4171 (i) assess whether the defendant is exhibiting false or exaggerated physical or
  - 4172 psychological symptoms;
  - 4173 (ii) describe any diagnostic instruments, methods, and observations used by the
  - 4174 examiner to make the determination;
  - 4175 (iii) state the forensic evaluator's opinion as to the effect of any false or exaggerated
  - 4176 symptoms on the defendant's competency to stand trial;
  - 4177 (iv) assess the facility's or program's capacity to provide appropriate restoration
  - 4178 treatment for the defendant;
  - 4179 (v) assess the nature of restoration treatment provided to the defendant;

4180 (vi) assess what progress the defendant has made toward competency restoration, with  
4181 respect to the factors identified by the court in its initial order;

4182 (vii) describe the defendant's current level of intellectual or developmental disability  
4183 and need for treatment, if any; and

4184 (viii) assess the likelihood of restoration to competency, the amount of time estimated  
4185 to achieve competency, or the amount of time estimated to determine whether restoration to  
4186 competency may be achieved.

4187 (3) The court on its own motion or upon motion by either party or the department may  
4188 appoint an additional forensic evaluator to conduct a progress toward competency evaluation. If  
4189 the court appoints an additional forensic evaluator upon motion of a party, that party shall pay  
4190 the costs of the additional forensic evaluator.

4191 (4) Within 15 days after the day on which the court receives the forensic evaluator's  
4192 report of the progress toward competency evaluation, the court shall hold a hearing to review  
4193 the defendant's competency. At the hearing, the burden of proving that the defendant is  
4194 competent to stand trial is on the proponent of competency. Following the hearing, the court  
4195 shall determine by a preponderance of evidence whether the defendant is:

4196 (a) competent to stand trial;

4197 (b) incompetent to proceed, with a substantial probability that the defendant may  
4198 become competent in the foreseeable future; or

4199 (c) incompetent to proceed, without a substantial probability that the defendant may  
4200 become competent in the foreseeable future.

4201 (5) (a) If the court determines that the defendant is competent to stand trial, the court  
4202 shall:

4203 (i) proceed with the trial or other procedures as may be necessary to adjudicate the  
4204 charges; and

4205 (ii) order that the defendant be returned to the placement and status that the defendant  
4206 was in at the time when the petition for the adjudication of competency was filed, unless the  
4207 court determines that a different placement is more appropriate.

4208 (b) If the court determines that the defendant is not competent to proceed but that there  
4209 is a substantial probability that the defendant may become competent in the foreseeable future,  
4210 the court may order that the defendant remain committed to the department or the department's



4211 designee for the purpose of restoration treatment.

4212 (c) If the court determines that the defendant is incompetent to proceed and that there is  
4213 not a substantial probability that the defendant may become competent in the foreseeable  
4214 future, the court shall order the defendant released from commitment to the department, unless  
4215 the prosecutor informs the court that commitment proceedings pursuant to [~~Title 62A, Chapter~~  
4216 ~~5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental~~  
4217 ~~Health Act]~~ Title 26B, Chapter 5, Health Care -- Substance Use and Mental Health, or Title  
4218 26B, Chapter 6, Part 4, Division of Services for People with Disabilities, will be initiated.

4219 These commitment proceedings must be initiated within seven days after the day on which the  
4220 court makes the determination described in Subsection (4)(c), unless the court finds that there  
4221 is good cause to delay the initiation of the civil commitment proceedings. The court may order  
4222 the defendant to remain in the commitment of the department until the civil commitment  
4223 proceedings conclude. If the defendant is civilly committed, the department shall notify the  
4224 court that adjudicated the defendant incompetent to proceed at least 10 days before any release  
4225 of the committed individual.

4226 (6) If a court, under Subsection (5)(b), extends a defendant's commitment, the court  
4227 shall schedule a competency review hearing for the earlier of:

4228 (a) the department's best estimate of when the defendant may be restored to  
4229 competency; or

4230 (b) three months after the day on which the court determined under Subsection (5)(b)  
4231 to extend the defendant's commitment.

4232 (7) If a defendant is not competent to proceed by the day of the competency review  
4233 hearing that follows the extension of a defendant's commitment, a court shall:

4234 (a) except for a defendant charged with crimes listed in Subsection (8), order a  
4235 defendant:

4236 (i) released; or

4237 (ii) temporarily detained pending civil commitment proceedings under the same terms  
4238 as described in Subsection (5)(c); and

4239 (b) terminate the defendant's commitment to the department for restoration treatment.

4240 (8) If the defendant has been charged with aggravated murder, murder, attempted  
4241 murder, manslaughter, or a first degree felony and the court determines that the defendant is

4242 making reasonable progress towards restoration of competency at the time of the hearing held  
4243 pursuant to Subsection (6), the court may extend the commitment for a period not to exceed 9  
4244 months for the purpose of restoration treatment, with a mandatory review hearing at the end of  
4245 the 9-month period.

4246 (9) If at the 9-month review hearing described in Subsection (8), the court determines  
4247 that the defendant is not competent to proceed, the court shall:

4248 (a) order the defendant, except for a defendant charged with aggravated murder or  
4249 murder, to be:

4250 (i) released; or

4251 (ii) temporarily detained pending civil commitment proceedings under the same terms  
4252 as provided in Subsection (5)(c); and

4253 (b) terminate the defendant's commitment to the department for restoration treatment.

4254 (10) If the defendant has been charged with aggravated murder or murder and the court  
4255 determines that the defendant is making reasonable progress towards restoration of competency  
4256 at the time of the 9-month review hearing described in Subsection (8), the court may extend the  
4257 commitment for a period not to exceed 24 months for the purpose of restoration treatment.

4258 (11) If the court extends the defendant's commitment term under Subsection (10), the  
4259 court shall hold a hearing no less frequently than at 12-month intervals following the extension  
4260 for the purpose of determining the defendant's competency status.

4261 (12) If, at the end of the 24-month commitment period described in Subsection (10),  
4262 the court determines that the defendant is not competent to proceed, the court shall:

4263 (a) order the defendant to be:

4264 (i) released; or

4265 (ii) temporarily detained pending civil commitment proceedings under the same terms  
4266 as provided in Subsection (5)(c); and

4267 (b) terminate the defendant's commitment to the department for restoration treatment.

4268 (13) Neither release from a pretrial incompetency commitment under the provisions of  
4269 this section nor civil commitment requires dismissal of criminal charges. The court may retain  
4270 jurisdiction over the criminal case and may order periodic reviews.

4271 (14) A defendant who is civilly committed pursuant to ~~[Title 62A, Chapter 5, Services~~  
4272 ~~for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health~~

4273 Act] Title 26B, Chapter 5, Health Care -- Substance Use and Mental Health, or Title 26B,  
4274 Chapter 6, Part 4, Division of Services for People with Disabilities, may still be adjudicated  
4275 competent to stand trial under this chapter.

4276 (15) (a) The remedy for a violation of the time periods specified in this section, other  
4277 than those specified in Subsection (5)(c), (7), (9), or (12), shall be a motion to compel the  
4278 hearing, or mandamus, but not release from detention or dismissal of the criminal charges.

4279 (b) The remedy for a violation of the time periods specified in Subsection (5)(c), (7),  
4280 (9), or (12), or is not dismissal of the criminal charges.

4281 (16) In cases in which the treatment of the defendant is precluded by court order for a  
4282 period of time, that time period may not be considered in computing time limitations under this  
4283 section.

4284 (17) (a) At any time that the defendant becomes competent to stand trial, the clinical  
4285 director of the hospital, the department, or the department's designee shall certify that fact to  
4286 the court.

4287 (b) The court shall conduct a competency review hearing:

4288 (i) within 15 working days after the day on which the court receives the certification  
4289 described in Subsection (17)(a); or

4290 (ii) within 30 working days after the day on which the court receives the certification  
4291 described in Subsection (17)(a), if the court determines that more than 15 days are necessary  
4292 for good cause related to the defendant's competency.

4293 (18) The court may order a hearing or rehearing at any time on its own motion or upon  
4294 recommendations of the clinical director of the hospital or other facility or the department.

4295 (19) Notice of a hearing on competency to stand trial shall be given to the prosecuting  
4296 attorney. If the hearing is held in the county where the defendant is confined, notice shall also  
4297 be given to the prosecuting attorney for that county.

4298 Section 66. Section **77-15a-104** is amended to read:

4299 **77-15a-104. Hearing -- Notice -- Stay of proceeding -- Examinations of defendant**  
4300 **-- Scope of examination -- Report -- Procedures.**

4301 (1) (a) If a defendant proposes to offer evidence concerning or argue that he qualifies  
4302 for an exemption from the death penalty under Subsection **77-15a-101**(1) or (2), the defendant  
4303 shall file and serve the prosecuting attorney with written notice of his intention as soon as

4304 practicable, but not fewer than 60 days before trial.

4305 (b) If the defendant wishes to claim the exemption provided in Subsection  
4306 77-15a-101(2), the defendant shall file and serve the prosecuting attorney with written notice of  
4307 his intention as soon as practicable, but not fewer than 60 days before trial.

4308 (2) When notice is given under Subsection (1), the court raises the issue, or a motion is  
4309 filed regarding Section 77-15a-101, the court may stay all proceedings in order to address the  
4310 issue.

4311 (3) (a) The court shall order the Department of [~~Human Services~~] Health and Human  
4312 Services to appoint at least two mental health experts to examine the defendant and report to  
4313 the court. The experts:

4314 (i) may not be involved in the current treatment of the defendant; and

4315 (ii) shall have expertise in intellectual disability assessment.

4316 (b) Upon appointment of the experts, the defendant or other party as directed by the  
4317 court shall provide information and materials to the examiners relevant to a determination of  
4318 the defendant's intellectual disability, including copies of the charging document, arrest or  
4319 incident reports pertaining to the charged offense, known criminal history information, and  
4320 known prior mental health evaluations and treatments.

4321 (c) The court may make the necessary orders to provide the information listed in  
4322 Subsection (3)(b) to the examiners.

4323 (d) The court may provide in its order appointing the examiners that custodians of  
4324 mental health records pertaining to the defendant shall provide those records to the examiners  
4325 without the need for consent of the defendant or further order of the court.

4326 (e) Prior to examining the defendant, examiners shall specifically advise the defendant  
4327 of the limits of confidentiality as provided under Section 77-15a-106.

4328 (4) During any examinations under Subsection (3), unless the court directs otherwise,  
4329 the defendant shall be retained in the same custody or status he was in at the time the  
4330 examination was ordered.

4331 (5) The experts shall in the conduct of their examinations and in their reports to the  
4332 court consider and address:

4333 (a) whether the defendant is intellectually disabled as defined in Section 77-15a-102;

4334 (b) the degree of any intellectual disability the expert finds to exist;

- 4335 (c) whether the defendant is intellectually disabled as specified in Subsection  
4336 77-15a-101(2); and
- 4337 (d) the degree of any intellectual disability the expert finds to exist.
- 4338 (6) (a) The experts examining the defendant shall provide written reports to the court,  
4339 the prosecution, and the defense within 60 days of the receipt of the court's order, unless the  
4340 expert submits to the court a written request for additional time in accordance with Subsection  
4341 (6)(c).
- 4342 (b) The reports shall provide to the court and to prosecution and defense counsel the  
4343 examiners' written opinions concerning the intellectual disability of the defendant.
- 4344 (c) If an examiner requests of the court additional time, the examiner shall provide the  
4345 report to the court and counsel within 90 days from the receipt of the court's order unless, for  
4346 good cause shown, the court authorizes an additional period of time to complete the  
4347 examination and provide the report.
- 4348 (7) Any written report submitted by an expert shall:
- 4349 (a) identify the specific matters referred for evaluation;
- 4350 (b) describe the procedures, techniques, and tests used in the examination and the  
4351 purpose or purposes for each;
- 4352 (c) state the expert's clinical observations, findings, and opinions; and
- 4353 (d) identify the sources of information used by the expert and present the basis for the  
4354 expert's clinical findings and opinions.
- 4355 (8) Within 30 days after receipt of the report from the Department of [~~Human Services~~]  
4356 Health and Human Services, but not later than five days before hearing, or at any other time the  
4357 court directs, the prosecuting attorney shall file and serve upon the defendant a notice of  
4358 witnesses the prosecuting attorney proposes to call in rebuttal.
- 4359 (9) (a) Except pursuant to Section 77-15a-105, this chapter does not prevent any party  
4360 from producing any other testimony as to the mental condition of the defendant.
- 4361 (b) Expert witnesses who are not appointed by the court are not entitled to  
4362 compensation under Subsection (10).
- 4363 (10) (a) Expenses of examinations of the defendant ordered by the court under this  
4364 section shall be paid by the Department of [~~Human Services~~] Health and Human Services.
- 4365 (b) Travel expenses associated with any court-ordered examination that are incurred by

4366 the defendant shall be charged by the Department of [~~Human Services~~] Health and Human  
4367 Services to the county where prosecution is commenced.

4368 (11) (a) When the report is received, the court shall set a date for a hearing to  
4369 determine if the exemption under Section 77-15a-101 applies. The hearing shall be held and  
4370 the judge shall make the determination within a reasonable time prior to jury selection.

4371 (b) Prosecution and defense counsel may subpoena to testify at the hearing any person  
4372 or organization appointed by the Department of [~~Human Services~~] Health and Human Services  
4373 to conduct the examination and any independent examiner.

4374 (c) The court may call any examiner to testify at the hearing who is not called by the  
4375 parties. If the court calls an examiner, counsel for the parties may cross-examine that  
4376 examiner.

4377 (12) (a) A defendant is presumed not to be intellectually disabled unless the court, by a  
4378 preponderance of the evidence, finds the defendant to be intellectually disabled. The burden of  
4379 proof is upon the proponent of intellectual disability at the hearing.

4380 (b) A finding of intellectual disability does not operate as an adjudication of  
4381 intellectual disability for any purpose other than exempting the person from a sentence of death  
4382 in the case before the court.

4383 (13) (a) The defendant is presumed not to possess the mental deficiencies listed in  
4384 Subsection 77-15a-101(2) unless the court, by a preponderance of the evidence, finds that the  
4385 defendant has significant subaverage general intellectual functioning that exists concurrently  
4386 with significant deficiencies in adaptive functioning and that this functioning was manifested  
4387 prior to age 22. The burden of proof is upon the proponent of that proposition.

4388 (b) If the court finds by a preponderance of the evidence that the defendant has  
4389 significant subaverage general intellectual functioning that exists concurrently with significant  
4390 deficiencies in adaptive functioning and that this functioning was manifested prior to age 22,  
4391 then the burden is upon the state to establish that any confession by the defendant which the  
4392 state intends to introduce into evidence is supported by substantial evidence independent of the  
4393 confession.

4394 (14) (a) If the court finds the defendant intellectually disabled, it shall issue an order:

4395 (i) containing findings of fact and conclusions of law, and addressing each of the  
4396 factors in Subsections (5)(a) and (b); and

4397 (ii) stating that the death penalty is not a sentencing option in the case before the court.

4398 (b) If the court finds by a preponderance of the evidence that the defendant possesses

4399 the mental deficiencies listed in Subsection 77-15a-101(2) and that the state fails to establish

4400 that any confession is supported by substantial evidence independent of the confession, the

4401 state may proceed with its case and:

4402 (i) introduce the confession into evidence, and the death penalty will not be a

4403 sentencing option in the case; or

4404 (ii) not introduce into evidence any confession or the fruits of a confession that the

4405 court has found is not supported by substantial evidence independent of the confession, and the

4406 death penalty will be a sentencing option in the case.

4407 (c) (i) A finding by the court regarding whether the defendant qualifies for an

4408 exemption under Section 77-15a-101 is a final determination of that issue for purposes of this

4409 chapter.

4410 (ii) The following questions may not be submitted to the jury by instruction, special

4411 verdict, argument, or other means:

4412 (A) whether the defendant is intellectually disabled for purposes of this chapter; and

4413 (B) whether the defendant possesses the mental deficiencies specified in Subsection

4414 77-15a-101(2).

4415 (iii) This chapter does not prevent the defendant from submitting evidence of

4416 intellectual disability or other mental deficiency to establish a mental condition as a mitigating

4417 circumstance under Section 76-3-207.

4418 (15) A ruling by the court that the defendant is exempt from the death penalty may be

4419 appealed by the state pursuant to Section 77-18a-1.

4420 (16) Failure to comply with this section does not result in the dismissal of criminal

4421 charges.

4422 Section 67. Section 77-15a-105 is amended to read:

4423 **77-15a-105. Defendant's wilful failure to cooperate -- Expert testimony regarding**

4424 **intellectual disability is barred.**

4425 (1) If the defendant files notice, raises the issue, or intends to present evidence or make

4426 an argument that the defendant is exempt from the death penalty under this chapter, the

4427 defendant shall make himself available and fully cooperate in any examination by mental

4428 health experts appointed by the Department of [~~Human Services~~] Health and Human Services  
4429 and any other independent examiners for the defense or the prosecution.

4430 (2) If the defendant wilfully fails to make himself available and fully cooperate in the  
4431 examination, and that failure is established to the satisfaction of the court, the defendant is  
4432 barred from presenting expert testimony relating to any exemption from the death penalty  
4433 under this chapter.

4434 Section 68. Section **77-16a-101** is amended to read:

4435 **77-16a-101. Definitions.**

4436 As used in this chapter:

4437 (1) "Board" means the Board of Pardons and Parole established under Section [77-27-2](#).

4438 (2) "Department" means the Department of [~~Human Services~~] Health and Human  
4439 Services.

4440 (3) "Executive director" means the executive director of the Department of [~~Human~~  
4441 Services] Health and Human Services.

4442 (4) "Mental health facility" means the Utah State Hospital or other facility that  
4443 provides mental health services under contract with the division, a local mental health  
4444 authority, or organization that contracts with a local mental health authority.

4445 (5) "Mental illness" is as defined in Section [76-2-305](#).

4446 (6) "Offender with a mental illness" means an individual who has been adjudicated  
4447 guilty with a mental illness, including an individual who has an intellectual disability.

4448 (7) "UDC" means the Department of Corrections.

4449 Section 69. Section **77-16a-202** is amended to read:

4450 **77-16a-202. Person found guilty with a mental illness -- Commitment to**  
4451 **department -- Admission to Utah State Hospital.**

4452 (1) In sentencing and committing an offender with a mental illness to the department  
4453 under Subsection [77-16a-104](#)(3)(a), the court shall:

4454 (a) sentence the offender to a term of imprisonment and order that he be committed to  
4455 the department and admitted to the Utah State Hospital for care and treatment until transferred  
4456 to UDC in accordance with Sections [77-16a-203](#) and [77-16a-204](#), making provision for  
4457 readmission to the Utah State Hospital whenever the requirements and conditions of Section  
4458 [77-16a-204](#) are met; or



4459 (b) sentence the offender to a term of imprisonment and order that the offender be  
4460 committed to the department for care and treatment for no more than 18 months, or until the  
4461 offender's condition has been stabilized to the point that commitment to the department and  
4462 admission to the Utah State Hospital is no longer necessary to ensure adequate mental health  
4463 treatment, whichever occurs first. At the expiration of that time, the court may recall the  
4464 sentence and commitment, and resentence the offender. A commitment and retention of  
4465 jurisdiction under this Subsection (1)(b) shall be specified in the sentencing order. If that  
4466 specification is not included in the sentencing order, the offender shall be committed in  
4467 accordance with Subsection (1)(a).

4468 (2) The court may not retain jurisdiction, under Subsection (1)(b), over the sentence of  
4469 an offender with a mental illness who has been convicted of a capital felony. In capital cases,  
4470 the court shall make the findings required by this section after the capital sentencing  
4471 proceeding mandated by Section 76-3-207.

4472 (3) When an offender is committed to the department and admitted to the Utah State  
4473 Hospital under Subsection (1)(b), the department shall provide the court with reports of the  
4474 offender's mental health status every six months. Those reports shall be prepared in accordance  
4475 with the requirements of Section 77-16a-203. Additionally, the court may appoint an  
4476 independent examiner to assess the mental health status of the offender.

4477 (4) The period of commitment to the department and admission to the Utah State  
4478 Hospital, and any subsequent retransfers to the Utah State Hospital made pursuant to Section  
4479 77-16a-204 may not exceed the maximum sentence imposed by the court. Upon expiration of  
4480 that sentence, the administrator of the facility where the offender is located may initiate civil  
4481 proceedings for involuntary commitment in accordance with [~~Title 62A, Chapter 5, Services  
4482 for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health  
4483 Act~~] Title 26B, Chapter 5, Health Care -- Substance Use and Mental Health, or Title 26B,  
4484 Chapter 6, Part 4, Division of Services for People with Disabilities.

4485 Section 70. Section 77-16a-203 is amended to read:

4486 **77-16a-203. Review of offenders with a mental illness committed to department --**  
4487 **Recommendations for transfer to Department of Corrections.**

4488 (1) (a) The executive director shall designate a review team of at least three qualified  
4489 staff members, including at least one licensed psychiatrist, to evaluate the mental condition of

4490 each offender with a mental illness committed to it in accordance with Section [77-16a-202](#), at  
4491 least once every six months.

4492 (b) If the offender has an intellectual disability, the review team shall include at least  
4493 one individual who is a designated intellectual disability professional, as defined in Section  
4494 [~~62A-5-101~~] [26B-6-401](#).

4495 (2) At the conclusion of its evaluation, the review team described in Subsection (1)  
4496 shall make a report to the executive director:

4497 (a) regarding the offender's:

4498 (i) current mental condition;

4499 (ii) progress since commitment; and

4500 (iii) prognosis; and

4501 (b) that includes a recommendation regarding whether the offender with a mental  
4502 illness should be:

4503 (i) transferred to UDC; or

4504 (ii) remain in the custody of the department.

4505 (3) (a) The executive director shall notify the UDC medical administrator and the  
4506 board's mental health adviser that an offender with a mental illness is eligible for transfer to  
4507 UDC if the review team finds that the offender:

4508 (i) no longer has a mental illness; or

4509 (ii) has a mental illness and may continue to be a danger to self or others, but can be  
4510 controlled if adequate care, medication, and treatment are provided by UDC; and

4511 (iii) the offender's condition has been stabilized to the point that commitment to the  
4512 department and admission to the Utah State Hospital are no longer necessary to ensure  
4513 adequate mental health treatment.

4514 (b) The administrator of the mental health facility where the offender is located shall  
4515 provide the UDC medical administrator with a copy of the reviewing staff's recommendation  
4516 and:

4517 (i) all available clinical facts;

4518 (ii) the diagnosis;

4519 (iii) the course of treatment received at the mental health facility;

4520 (iv) the prognosis for remission of symptoms;

- 4521 (v) the potential for recidivism;
- 4522 (vi) an estimation of the offender's dangerousness, either to self or others; and
- 4523 (vii) recommendations for future treatment.

4524 Section 71. Section **77-16a-204** is amended to read:

4525 **77-16a-204. UDC acceptance of transfer of persons found guilty with a mental**  
4526 **illness -- Retransfer from UDC to department for admission to the Utah State Hospital.**

4527 (1) The UDC medical administrator shall designate a transfer team of at least three  
4528 qualified staff members, including at least one licensed psychiatrist, to evaluate the  
4529 recommendation made by the department's review team pursuant to Section [77-16a-203](#). If the  
4530 offender has an intellectual disability, the transfer team shall include at least one person who  
4531 has expertise in testing and diagnosis of people with intellectual disabilities.

4532 (2) The transfer team shall concur in the recommendation if the transfer team  
4533 determines that UDC can provide the offender with a mental illness with adequate mental  
4534 health treatment.

4535 (3) The UDC transfer team and medical administrator shall recommend the facility in  
4536 which the offender should be placed and the treatment to be provided in order for the offender's  
4537 mental condition to remain stabilized to the director of the Division of Institutional Operations,  
4538 within the Department of Corrections.

4539 (4) In the event that the department and UDC do not agree on the transfer of an  
4540 offender with a mental illness, the administrator of the mental health facility where the offender  
4541 is located shall notify the mental health adviser for the board, in writing, of the dispute. The  
4542 mental health adviser shall be provided with copies of all reports and recommendations. The  
4543 board's mental health adviser shall make a recommendation to the board on the transfer and the  
4544 board shall issue its decision within 30 days.

4545 (5) UDC shall notify the board whenever an offender with a mental illness is  
4546 transferred from the department to UDC.

4547 (6) When an offender with a mental illness sentenced under Section [77-16a-202](#), who  
4548 has been transferred from the department to UDC, and accepted by UDC, is evaluated and it is  
4549 determined that the offender's mental condition has deteriorated or that the offender has  
4550 become mentally unstable, the offender may be readmitted to the Utah State Hospital in  
4551 accordance with the findings and procedures described in Section [[62A-15-605.5](#)] [26B-5-372](#).

4552 (7) Any person readmitted to the Utah State Hospital pursuant to Subsection (6) shall  
4553 remain in the custody of UDC, and the state hospital shall act solely as the agent of UDC.

4554 (8) An offender with a mental illness who has been readmitted to the Utah State  
4555 Hospital pursuant to Subsection (6) shall be transferred back to UDC in accordance with the  
4556 provisions of Section [77-16a-203](#).

4557 Section 72. Section **77-16a-302** is amended to read:

4558 **77-16a-302. Persons found not guilty by reason of insanity -- Disposition.**

4559 (1) Upon a verdict of not guilty by reason of insanity, the court shall conduct a hearing  
4560 within 10 days to determine whether the defendant currently has a mental illness. The defense  
4561 counsel and prosecutors may request further evaluations and present testimony from those  
4562 examiners.

4563 (2) After the hearing and upon consideration of the record, the court shall order the  
4564 defendant committed to the department if it finds by clear and convincing evidence that:

4565 (a) the defendant has a mental illness; and

4566 (b) because of that mental illness the defendant presents a substantial danger to self or  
4567 others.

4568 (3) The period of commitment described in Subsection (2) may not exceed the period  
4569 for which the defendant could be incarcerated had the defendant been convicted and received  
4570 the maximum sentence for the crime of which the defendant was accused. At the time that  
4571 period expires, involuntary civil commitment proceedings may be instituted in accordance with  
4572 [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B, Chapter 5, Health  
4573 Care -- Substance Use and Mental Health.

4574 Section 73. Section **77-18-102** is amended to read:

4575 **77-18-102. Definitions.**

4576 As used in this chapter:

4577 (1) "Assessment" means, except as provided in Section [77-18-104](#), the same as the  
4578 term "risk and needs assessment" in Section [77-1-3](#).

4579 (2) "Board" means the Board of Pardons and Parole.

4580 (3) "Civil accounts receivable" means the same as that term is defined in Section  
4581 [77-32b-102](#).

4582 (4) "Civil judgment of restitution" means the same as that term is defined in Section

4583 77-32b-102.

4584 (5) "Convicted" means the same as that term is defined in Section 76-3-201.

4585 (6) "Criminal accounts receivable" means the same as that term is defined in Section  
4586 77-32b-102.

4587 (7) "Default" means the same as that term is defined in Section 77-32b-102.

4588 (8) "Delinquent" means the same as that term is defined in Section 77-32b-102.

4589 (9) "Department" means the Department of Corrections created in Section 64-13-2.

4590 (10) "Payment schedule" means the same as that term is defined in Section  
4591 77-32b-102.

4592 (11) "Restitution" means the same as that term is defined in Section 77-38b-102.

4593 (12) "Screening" means, except as provided in Section 77-18-104, a tool or  
4594 questionnaire that is designed to determine whether an individual needs further assessment or  
4595 any additional resource or referral for treatment.

4596 (13) "Substance use disorder treatment" means treatment obtained through a substance  
4597 use disorder program that is licensed by the Office of Licensing within the Department of  
4598 [~~Human Services~~] Health and Human Services.

4599 Section 74. Section 77-18-106 is amended to read:

4600 **77-18-106. Treatment at the Utah State Hospital -- Condition of probation or stay**  
4601 **of sentence.**

4602 The court may order as a condition of probation, or a stay of sentence, that the  
4603 defendant be voluntarily admitted to the custody of the [~~Division of Substance Abuse~~] Office  
4604 of Substance Use and Mental Health for treatment at the Utah State Hospital only if the  
4605 superintendent of the Utah State Hospital, or the superintendent's designee, certifies to the  
4606 court that:

4607 (1) the defendant is appropriate for, and can benefit from, treatment at the Utah State  
4608 Hospital;

4609 (2) there is space at the Utah State Hospital for treatment of the defendant; and

4610 (3) individuals described in Subsection [~~62A-15-610(2)(g)~~] 26B-5-306(2)(g) are  
4611 receiving priority for treatment over the defendant.

4612 Section 75. Section 77-19-204 is amended to read:

4613 **77-19-204. Order for hearing -- Examinations of inmate -- Scope of examination**

4614 **and report.**

4615 (1) When a court has good reason to believe an inmate sentenced to death is  
4616 incompetent to be executed, it shall stay the execution and shall order the Department of  
4617 [~~Human Services~~] Health and Human Services to examine the inmate and report to the court  
4618 concerning the inmate's mental condition.

4619 (2) (a) The inmate subject to examination under Subsection (1) shall be examined by at  
4620 least two mental health experts who are not involved in the inmate's current treatment.

4621 (b) The Department of Corrections shall provide information and materials to the  
4622 examiners relevant to a determination of the inmate's competency to be executed.

4623 (3) The inmate shall make himself available and fully cooperate in the examination by  
4624 the Department of [~~Human Services~~] Health and Human Services and any other independent  
4625 examiners for the defense or the state.

4626 (4) The examiners shall in the conduct of their examinations and in their reports to the  
4627 court consider and address, in addition to any other factors determined to be relevant by the  
4628 examiners:

4629 (a) the inmate's awareness of the fact of the inmate's impending execution;

4630 (b) the inmate's understanding that the inmate is to be executed for the crime of  
4631 murder;

4632 (c) the nature of the inmate's mental disorder, if any, and its relationship to the factors  
4633 relevant to the inmate's competency; and

4634 (d) whether psychoactive medication is necessary to maintain or restore the inmate's  
4635 competency.

4636 (5) The examiners who are examining the inmate shall each provide an initial report to  
4637 the court and the attorneys for the state and the inmate within 60 days of the receipt of the  
4638 court's order. The report shall inform the court of the examiner's opinion concerning the  
4639 competency of the inmate to be executed, or, in the alternative, the examiner may inform the  
4640 court in writing that additional time is needed to complete the report. If the examiner informs  
4641 the court that additional time is needed, the examiner shall have up to an additional 30 days to  
4642 provide the report to the court and counsel. The examiner shall provide the report within 90  
4643 days from the receipt of the court's order unless, for good cause shown, the court authorizes an  
4644 additional period of time to complete the examination and provide the report.

4645 (6) (a) All interviews with the inmate conducted by the examiners shall be videotaped,  
4646 unless otherwise ordered by the court for good cause shown. The Department of Corrections  
4647 shall provide the videotaping equipment and facilitate the videotaping of the interviews.

4648 (b) Immediately following the videotaping, the videotape shall be provided to the  
4649 attorney for the state, who shall deliver it as soon as practicable to the judge in whose court the  
4650 competency determination is pending.

4651 (c) The court shall grant counsel for the state and for the inmate, and examiners who  
4652 are examining the inmate under this part access to view the videotape at the court building  
4653 where the court is located that is conducting the competency determination under this part.

4654 (7) Any written report submitted by an examiner shall:

4655 (a) identify the specific matters referred for evaluation;

4656 (b) describe the procedures, techniques, and tests used in the examination and the  
4657 purpose or purposes for each;

4658 (c) state the examiner's clinical observations, findings, and opinions on each issue  
4659 referred for examination by the court, and indicate specifically those issues, if any, on which  
4660 the examiner could not give an opinion; and

4661 (d) identify the sources of information used by the examiner and present the basis for  
4662 the examiner's clinical findings and opinions.

4663 (8) (a) When the reports are received, the court shall set a date for a competency  
4664 hearing, which shall be held within not less than five and not more than 15 days, unless the  
4665 court extends the time for good cause.

4666 (b) Any examiner directed by the Department of [~~Human Services~~] Health and Human  
4667 Services to conduct the examination may be subpoenaed to provide testimony at the hearing. If  
4668 the examiners are in conflict as to the competency of the inmate, all of them should be called to  
4669 testify at the hearing if they are reasonably available.

4670 (c) The court may call any examiner to testify at the hearing who is not called by the  
4671 parties. An examiner called by the court may be cross-examined by counsel for the parties.

4672 (9) (a) An inmate shall be presumed competent to be executed unless the court, by a  
4673 preponderance of the evidence, finds the inmate incompetent to be executed. The burden of  
4674 proof is upon the proponent of incompetency at the hearing.

4675 (b) An adjudication of incompetency to be executed does not operate as an

4676 adjudication of the inmate's incompetency to give informed consent for medical treatment or  
4677 for any other purpose, unless specifically set forth in the court order.

4678 (10) (a) If the court finds the inmate incompetent to be executed, its order shall contain  
4679 findings addressing each of the factors in Subsections (4)(a) through (d).

4680 (b) The order finding the inmate incompetent to be executed shall be delivered to the  
4681 Department of [~~Human Services~~] Health and Human Services, and shall be accompanied by:

4682 (i) copies of the reports of the examiners filed with the court pursuant to the order of  
4683 examination, if not provided previously;

4684 (ii) copies of any of the psychiatric, psychological, or social work reports submitted to  
4685 the court relative to the mental condition of the inmate; and

4686 (iii) any other documents made available to the court by either the defense or the state,  
4687 pertaining to the inmate's current or past mental condition.

4688 (c) A copy of the order finding the inmate incompetent to be executed shall be  
4689 delivered to the Department of Corrections.

4690 Section 76. Section **77-19-205** is amended to read:

4691 **77-19-205. Procedures on finding of incompetency to be executed -- Subsequent**  
4692 **hearings -- Notice to attorneys.**

4693 (1) (a) (i) If after the hearing under Section [77-19-204](#) the inmate is found to be  
4694 incompetent to be executed, the court shall continue the stay of execution and the inmate shall  
4695 receive appropriate mental health treatment.

4696 (ii) Appropriate mental health treatment under Subsection (1)(a)(i) does not include the  
4697 forcible administration of psychoactive medication for the sole purpose of restoring the  
4698 inmate's competency to be executed.

4699 (b) The court shall order the executive director of the Department of [~~Human Services~~]  
4700 Health and Human Services to provide periodic assessments to the court regarding the inmate's  
4701 competency to be executed.

4702 (c) The inmate shall be held in secure confinement, either at the prison or the State  
4703 Hospital, as agreed upon by the executive director of the Department of Corrections and the  
4704 executive director of the Department of [~~Human Services~~] Health and Human Services. If the  
4705 inmate remains at the prison, the Department of [~~Human Services~~] Health and Human Services  
4706 shall consult with the Department of Corrections regarding the inmate's mental health



4707 treatment.

4708 (2) (a) The examiner or examiners designated by the executive director of the  
4709 Department of [~~Human Services~~] Health and Human Services to assess the inmate's progress  
4710 toward competency may not be involved in the routine treatment of the inmate.

4711 (b) The examiner or examiners shall each provide a full report to the court and counsel  
4712 for the state and the inmate within 90 days of receipt of the court's order. If any examiner is  
4713 unable to complete the assessment within 90 days, that examiner shall provide to the court and  
4714 counsel for the state and the inmate a summary progress report which informs the court that  
4715 additional time is necessary to complete the assessment, in which case the examiner has up to  
4716 an additional 90 days to provide the full report, unless the court enlarges the time for good  
4717 cause. The full report shall assess:

4718 (i) the facility's or program's capacity to provide appropriate treatment for the inmate;

4719 (ii) the nature of treatments provided to the inmate;

4720 (iii) what progress toward restoration of competency has been made;

4721 (iv) the inmate's current level of mental disorder and need for treatment, if any; and

4722 (v) the likelihood of restoration of competency and the amount of time estimated to  
4723 achieve it.

4724 (3) The court on its own motion or upon motion by either party may order the  
4725 Department of [~~Human Services~~] Health and Human Services to appoint additional mental  
4726 health examiners to examine the inmate and advise the court on the inmate's current mental  
4727 status and progress toward competency restoration.

4728 (4) (a) Upon receipt of the full report, the court shall hold a hearing to determine the  
4729 inmate's current status. At the hearing, the burden of proving that the inmate is competent is on  
4730 the proponent of competency.

4731 (b) Following the hearing, the court shall determine by a preponderance of evidence  
4732 whether the inmate is competent to be executed.

4733 (5) (a) If the court determines that the inmate is competent to be executed, it shall enter  
4734 findings and shall proceed under Subsection [77-19-202\(2\)\(c\)](#).

4735 (b) (i) If the court determines the inmate is still incompetent to be executed, the inmate  
4736 shall continue to receive appropriate mental health treatment, and the court shall hold hearings  
4737 no less frequently than at 18-month intervals for the purpose of determining the defendant's

4738 competency to be executed.

4739 (ii) Continued appropriate mental health treatment under Subsection (1)(a)(i) does not  
4740 include the forcible administration of psychoactive medication for the sole purpose of restoring  
4741 the inmate's competency to be executed.

4742 (6) (a) If at any time the clinical director of the Utah State Hospital or the primary  
4743 treating mental health professional determines that the inmate has been restored to competency,  
4744 he shall notify the court.

4745 (b) The court shall conduct a hearing regarding the inmate's competency to be executed  
4746 within 30 working days of the receipt of the notification under Subsection (6)(a), unless the  
4747 court extends the time for good cause. The court may order a hearing or rehearing at any time  
4748 on its own motion.

4749 (7) Notice of a hearing on competency to be executed shall be given to counsel for the  
4750 state and for the inmate, as well as to the office of the prosecutor who prosecuted the inmate on  
4751 the original capital charge.

4752 Section 77. Section **77-19-206** is amended to read:

4753 **77-19-206. Expenses -- Allocation.**

4754 The Department of [~~Human Services~~] Health and Human Services and the Department  
4755 of Corrections shall each pay 1/2 of the costs of any examination of the inmate conducted  
4756 pursuant to Sections **77-19-204** and **77-19-205** to determine if an inmate is competent to be  
4757 executed.

4758 Section 78. Section **77-23-213** is amended to read:

4759 **77-23-213. Blood testing.**

4760 (1) As used in this section:

4761 (a) "Law enforcement purpose" means duties that consist primarily of the prevention  
4762 and detection of crime and the enforcement of criminal statutes or ordinances of this state or  
4763 any of this state's political subdivisions.

4764 (b) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace  
4765 Officer Classifications.

4766 (2) A peace officer may require an individual to submit to a blood test for a law  
4767 enforcement purpose only if:

4768 (a) the individual or legal representative of the individual with authority to give

4769 consent gives oral or written consent to the blood test;

4770 (b) the peace officer obtains a warrant to administer the blood test; or

4771 (c) a judicially recognized exception to obtaining a warrant exists as established by the

4772 Utah Court of Appeals, Utah Supreme Court, Court of Appeals of the Tenth Circuit, or the

4773 Supreme Court of the United States.

4774 (3) (a) Only the following, acting at the request of a peace officer, may draw blood to

4775 determine the blood's alcohol or drug content:

4776 (i) a physician;

4777 (ii) a physician assistant;

4778 (iii) a registered nurse;

4779 (iv) a licensed practical nurse;

4780 (v) a paramedic;

4781 (vi) as provided in Subsection (3)(b), emergency medical service personnel other than a  
4782 paramedic; or

4783 (vii) a person with a valid permit issued by the Department of [~~Health~~] Health and  
4784 Human Services under Section [~~26-1-30~~] 26B-1-202.

4785 (b) The Department of [~~Health~~] Health and Human Services may designate by rule, in  
4786 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency  
4787 medical service personnel, as defined in Section [~~26-8a-102~~] 26B-4-101, are authorized to  
4788 draw blood under Subsection (3)(a)(vi), based on the type of license under Section [~~26-8a-302~~]  
4789 26B-4-116.

4790 (c) The following are immune from civil or criminal liability arising from drawing a  
4791 blood sample from a person who a peace officer requests, for law enforcement purposes, if the  
4792 sample is drawn in accordance with standard medical practice:

4793 (i) a person authorized to draw blood under Subsection (3)(a); and

4794 (ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

4795 Section 79. Section **77-32b-103** is amended to read:

4796 **77-32b-103. Establishment of a criminal accounts receivable -- Responsibility --**  
4797 **Payment schedule -- Delinquency or default.**

4798 (1) (a) Except as provided in Subsection (1)(b) and (c), at the time of sentencing or  
4799 acceptance of a plea in abeyance, the court shall enter an order to establish a criminal accounts

4800 receivable for the defendant.

4801 (b) The court is not required to create a criminal accounts receivable for the defendant  
4802 under Subsection (1)(a) if the court finds that the defendant does not owe restitution and there  
4803 are no other fines or fees to be assessed against the defendant.

4804 (c) Subject to Subsection 77-38b-205(5), if the court does not create a criminal  
4805 accounts receivable for a defendant under Subsection (1)(a), the court shall enter an order to  
4806 establish a criminal accounts receivable for the defendant at the time the court enters an order  
4807 for restitution under Section 77-38b-205.

4808 (2) After establishing a criminal accounts receivable for a defendant, the court shall:

4809 (a) if a prison sentence is imposed and not suspended for the defendant:

4810 (i) accept any payment for the criminal accounts receivable that is tendered on the date  
4811 of sentencing; and

4812 (ii) transfer the responsibility of receiving, distributing, and processing payments for  
4813 the criminal accounts receivable to the Office of State Debt Collection; and

4814 (b) for all other cases:

4815 (i) retain the responsibility for receiving, processing, and distributing payments for the  
4816 criminal accounts receivable until the court enters a civil accounts receivable or civil judgment  
4817 of restitution on the civil judgment docket under Subsection 77-18-114(1) or (2); and

4818 (ii) record each payment by the defendant on the case docket.

4819 (c) For a criminal accounts receivable that a court retains responsibility for receiving,  
4820 processing, and distributing payments under Subsection (2)(b)(i), the Judicial Council may  
4821 establish rules to require a defendant to pay the cost, or a portion of the cost, for an electronic  
4822 payment fee that is charged by a financial institution for the use of a credit or debit card to  
4823 make payments towards the criminal accounts receivable.

4824 (3) (a) Upon entering an order for a criminal accounts receivable, the court shall  
4825 establish a payment schedule for the defendant to make payments towards the criminal  
4826 accounts receivable.

4827 (b) In establishing the payment schedule for the defendant, the court shall consider:

4828 (i) the needs of the victim if the criminal accounts receivable includes an order for  
4829 restitution under Section 77-38b-205;

4830 (ii) the financial resources of the defendant, as disclosed in the financial declaration

4831 under Section [77-38b-204](#) or in evidence obtained by subpoena under Subsection  
4832 [77-38b-402](#)(1)(b);

4833 (iii) the burden that the payment schedule will impose on the defendant regarding the  
4834 other reasonable obligations of the defendant;

4835 (iv) the ability of the defendant to pay restitution on an installment basis or on other  
4836 conditions fixed by the court;

4837 (v) the rehabilitative effect on the defendant of the payment of restitution and method  
4838 of payment; and

4839 (vi) any other circumstance that the court determines is relevant.

4840 (4) A payment schedule for a criminal accounts receivable does not limit the ability of  
4841 a judgment creditor to pursue collection by any means allowable by law.

4842 (5) If the court orders restitution under Section [77-38b-205](#), or makes another financial  
4843 decision, after sentencing that increases the total amount owed in a defendant's case, the  
4844 defendant's criminal accounts receivable balance shall be adjusted to include any new amount  
4845 ordered by the court.

4846 (6) (a) If a defendant is incarcerated in a county jail or a secure correctional facility, as  
4847 defined in Section [64-13-1](#), or the defendant is involuntarily committed under Section  
4848 [~~62A-15-63~~] [26B-5-332](#):

4849 (i) all payments for a payment schedule shall be suspended for the period of time that  
4850 the defendant is incarcerated or involuntarily committed, unless the court, or the board if the  
4851 defendant is under the jurisdiction of the board, expressly orders the defendant to make  
4852 payments according to the payment schedule; and

4853 (ii) the defendant shall provide the court with notice of the incarceration or involuntary  
4854 commitment.

4855 (b) A suspension under Subsection (6)(a) shall remain in place for 60 days after the day  
4856 in which the defendant is released from incarceration or commitment.

4857 Section 80. Section [77-40a-305](#) is amended to read:

4858 **[77-40a-305](#). Petition for expungement -- Prosecutorial responsibility -- Hearing.**

4859 (1) (a) The petitioner shall file a petition for expungement, in accordance with the Utah  
4860 Rules of Criminal Procedure, that includes the identification number for the certificate of  
4861 eligibility described in Subsection [77-40a-304](#)(1)(d)(ii).

4862 (b) Information on a certificate of eligibility is incorporated into a petition by reference  
4863 to the identification number for the certificate of eligibility.

4864 (2) (a) If a petition for expungement is filed under Subsection (1)(a), the court shall  
4865 obtain a certificate of eligibility from the bureau.

4866 (b) A court may not accept a petition for expungement if the certificate of eligibility is  
4867 no longer valid as described in Subsection [77-40a-304](#)(1)(d)(i).

4868 (3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement  
4869 of a traffic conviction without obtaining a certificate of eligibility if:

4870 (a) (i) for a class C misdemeanor or infraction, at least three years have elapsed from  
4871 the day on which the petitioner was convicted; or

4872 (ii) for a class B misdemeanor, at least four years have elapsed from the day on which  
4873 the petitioner was convicted; and

4874 (b) all convictions in the case for the traffic conviction are for traffic offenses.

4875 (4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of  
4876 a record for a conviction related to cannabis possession without a certificate of eligibility if the  
4877 petition demonstrates that:

4878 (a) the petitioner had, at the time of the relevant arrest or citation leading to the  
4879 conviction, a qualifying condition, as that term is defined in Section [~~26-61a-102~~] [26B-4-201](#);  
4880 and

4881 (b) the possession of cannabis in question was in a form and an amount to medicinally  
4882 treat the qualifying condition described in Subsection (4)(a).

4883 (5) (a) The court shall provide notice of a filing of a petition and certificate of  
4884 eligibility to the prosecutorial office that handled the court proceedings within three days after  
4885 the day on which the petitioner's filing fee is paid or waived.

4886 (b) If there were no court proceedings, the court shall provide notice of a filing of a  
4887 petition and certificate of eligibility to the county attorney's office in the jurisdiction where the  
4888 arrest occurred.

4889 (c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention,  
4890 or conviction, was a city attorney's office, the county attorney's office in the jurisdiction where  
4891 the arrest occurred shall immediately notify the city attorney's office that the county attorney's  
4892 office has received a notice of a filing of a petition for expungement.

4893 (6) (a) Upon receipt of a notice of a filing of a petition for expungement of a conviction  
4894 or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall  
4895 make a reasonable effort to provide notice to any victim of the conviction or charge.

4896 (b) The notice under Subsection (6)(a) shall:

4897 (i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable  
4898 to the petition;

4899 (ii) state that the victim has a right to object to the expungement; and

4900 (iii) provide instructions for registering an objection with the court.

4901 (7) The prosecuting attorney and the victim, if applicable, may respond to the petition  
4902 by filing a recommendation or objection with the court within 35 days after the day on which  
4903 the notice of the filing of the petition is sent by the court to the prosecuting attorney.

4904 (8) (a) The court may request a written response to the petition from the Division of  
4905 Adult Probation and Parole within the Department of Corrections.

4906 (b) If requested, the response prepared by the Division of Adult Probation and Parole  
4907 shall include:

4908 (i) the reasons probation was terminated; and

4909 (ii) certification that the petitioner has completed all requirements of sentencing and  
4910 probation or parole.

4911 (c) The Division of Adult Probation and Parole shall provide a copy of the response to  
4912 the petitioner and the prosecuting attorney.

4913 (9) The petitioner may respond in writing to any objections filed by the prosecuting  
4914 attorney or the victim and the response prepared by the Division of Adult Probation and Parole  
4915 within 14 days after the day on which the objection or response is received.

4916 (10) (a) If the court receives an objection concerning the petition from any party, the  
4917 court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the  
4918 date set for the hearing.

4919 (b) The prosecuting attorney shall notify the victim of the date set for the hearing.

4920 (c) The petitioner, the prosecuting attorney, the victim, and any other person who has  
4921 relevant information about the petitioner may testify at the hearing.

4922 (d) The court shall review the petition, the certificate of eligibility, and any written  
4923 responses submitted regarding the petition.

4924 (11) If no objection is received within 60 days from the day on which the petition for  
4925 expungement is filed with the court, the expungement may be granted without a hearing.

4926 Section 81. Section **77-40a-306** is amended to read:

4927 **77-40a-306. Order of expungement.**

4928 (1) If a petition is filed in accordance with Section [77-40a-305](#), the court shall issue an  
4929 order of expungement if the court finds, by clear and convincing evidence, that:

4930 (a) except as provided in Subsection [77-40a-305](#)(3) or (4), the petition and certificate  
4931 of eligibility are sufficient;

4932 (b) the statutory requirements have been met;

4933 (c) if the petitioner seeks expungement after a case is dismissed without prejudice or  
4934 without condition, the prosecuting attorney provided written consent and has not filed and does  
4935 not intend to refile related charges;

4936 (d) if the petitioner seeks expungement without a certificate of eligibility for  
4937 expungement under Subsection [77-40a-305](#)(4) for a record of conviction related to cannabis  
4938 possession:

4939 (i) the petitioner had, at the time of the relevant arrest or citation leading to the  
4940 conviction, a qualifying condition, as that term is defined in Section [~~26-61a-102~~] [26B-4-201](#);  
4941 and

4942 (ii) the possession of cannabis in question was in a form and an amount to medicinally  
4943 treat the qualifying condition described in Subsection (1)(d)(i);

4944 (e) if an objection is received, the petition for expungement is for a charge dismissed in  
4945 accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used  
4946 for enhancement, there is good cause for the court to grant the expungement; and

4947 (f) the interests of the public would not be harmed by granting the expungement.

4948 (2) (a) If the court denies a petition described in Subsection (1)(c) because the  
4949 prosecuting attorney intends to refile charges, the petitioner may apply again for a certificate of  
4950 eligibility if charges are not refiled within 180 days after the day on which the court denies the  
4951 petition.

4952 (b) A prosecuting attorney who opposes an expungement of a case dismissed without  
4953 prejudice, or without condition, shall have a good faith basis for the intention to refile the case.

4954 (c) A court shall consider the number of times that good faith basis of intention to



4955 refile by the prosecuting attorney is presented to the court in making the court's determination  
4956 to grant the petition for expungement described in Subsection (1)(c).

4957 (3) If the court grants a petition described in Subsection (1)(e), the court shall make the  
4958 court's findings in a written order.

4959 (4) A court may not expunge a conviction of an offense for which a certificate of  
4960 eligibility may not be, or should not have been, issued under Section [77-40a-302](#) or  
4961 [77-40a-303](#).

4962 Section 82. Section **78A-2-231** is amended to read:

4963 **78A-2-231. Consideration of lawful use or possession of medical cannabis.**

4964 (1) As used in this section:

4965 (a) "Cannabis product" means the same as that term is defined in Section [~~26-61a-102~~]  
4966 [26B-4-201](#).

4967 (b) "Directions of use" means the same as that term is defined in Section [~~26-61a-102~~]  
4968 [26B-4-201](#).

4969 (c) "Dosing guidelines" means the same as that term is defined in Section [~~26-61a-102~~]  
4970 [26B-4-201](#).

4971 (d) "Medical cannabis" means the same as that term is defined in Section [~~26-61a-102~~]  
4972 [26B-4-201](#).

4973 (e) "Medical cannabis card" means the same as that term is defined in Section  
4974 [~~26-61a-102~~] [26B-4-201](#).

4975 (f) "Medical cannabis device" means the same as that term is defined in Section  
4976 [~~26-61a-102~~] [26B-4-201](#).

4977 (g) "Recommending medical provider" means the same as that term is defined in  
4978 Section [~~26-61a-102~~] [26B-4-201](#).

4979 (2) In any judicial proceeding in which a judge, panel, jury, or court commissioner  
4980 makes a finding, determination, or otherwise considers an individual's medical cannabis card,  
4981 medical cannabis recommendation from a recommending medical provider, or possession or  
4982 use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel,  
4983 jury, or court commissioner may not consider or treat the individual's card, recommendation,  
4984 possession, or use any differently than the lawful possession or use of any prescribed controlled  
4985 substance if:

4986 (a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production  
4987 Establishments;

4988 (b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

4989 (c) (i) the individual's possession or use complies with [~~Title 26, Chapter 61a, Utah~~  
4990 ~~Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical  
4991 Cannabis; and

4992 (ii) the individual reasonably complies with the directions of use and dosing guidelines  
4993 determined by the individual's recommending medical provider or through a consultation  
4994 described in Subsection [~~26-61a-502~~] 26B-4-230(4) or (5).

4995 (3) Notwithstanding Sections 77-18-105 and 77-2a-3, for probation, release, a plea in  
4996 abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of  
4997 Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain  
4998 from the use or possession of medical cannabis, a cannabis product, or a medical cannabis  
4999 device, either directly or through a general prohibition on violating federal law, without an  
5000 exception related to medical cannabis use, if the individual's use or possession complies with:

5001 (a) [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2,  
5002 Cannabinoid Research and Medical Cannabis; or

5003 (b) Subsection 58-37-3.7(2) or (3).

5004 Section 83. Section **78A-2-301** is amended to read:

5005 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

5006 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a  
5007 court of record not governed by another subsection is \$375.

5008 (b) The fee for filing a complaint or petition is:

5009 (i) \$90 if the claim for damages or amount in interpleader exclusive of court costs,  
5010 interest, and attorney fees is \$2,000 or less;

5011 (ii) \$200 if the claim for damages or amount in interpleader exclusive of court costs,  
5012 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

5013 (iii) \$375 if the claim for damages or amount in interpleader is \$10,000 or more;

5014 (iv) \$325 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter  
5015 4, Separate Maintenance;

5016 (v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5;

- 5017 (vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender  
5018 Registry under Section 77-41-112; and
- 5019 (vii) \$35 if the petition is for guardianship and the prospective ward is the biological or  
5020 adoptive child of the petitioner.
- 5021 (c) The fee for filing a small claims affidavit is:
- 5022 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,  
5023 interest, and attorney fees is \$2,000 or less;
- 5024 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,  
5025 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and
- 5026 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,  
5027 interest, and attorney fees is \$7,500 or more.
- 5028 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party  
5029 complaint, or other claim for relief against an existing or joined party other than the original  
5030 complaint or petition is:
- 5031 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is  
5032 \$2,000 or less;
- 5033 (ii) \$165 if the claim for relief exclusive of court costs, interest, and attorney fees is  
5034 greater than \$2,000 and less than \$10,000;
- 5035 (iii) \$170 if the original petition is filed under Subsection (1)(a), the claim for relief is  
5036 \$10,000 or more, or the party seeks relief other than monetary damages; and
- 5037 (iv) \$130 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,  
5038 Chapter 4, Separate Maintenance.
- 5039 (e) The fee for filing a small claims counter affidavit is:
- 5040 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is  
5041 \$2,000 or less;
- 5042 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is  
5043 greater than \$2,000, but less than \$7,500; and
- 5044 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is  
5045 \$7,500 or more.
- 5046 (f) The fee for depositing funds under Section 57-1-29 when not associated with an  
5047 action already before the court is determined under Subsection (1)(b) based on the amount

5048 deposited.

5049 (g) The fee for filing a petition is:

5050 (i) \$240 for trial de novo of an adjudication of the justice court or of the small claims  
5051 department; and

5052 (ii) \$80 for an appeal of a municipal administrative determination in accordance with  
5053 Section [10-3-703.7](#).

5054 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or  
5055 petition for writ of certiorari is \$240.

5056 (i) The fee for filing a petition for expungement is \$150.

5057 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be  
5058 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'  
5059 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'  
5060 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement  
5061 Act.

5062 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be  
5063 allocated by the state treasurer to be deposited into the restricted account, Children's Legal  
5064 Defense Account, as provided in Section [51-9-408](#).

5065 (iii) Five dollars of the fees established under Subsections (1)(a) through (e), (1)(g),  
5066 and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided  
5067 in Section [78B-6-209](#).

5068 (iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),  
5069 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be  
5070 deposited into the restricted account, Court Security Account, as provided in Section  
5071 [78A-2-602](#).

5072 (v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii)  
5073 and (1)(g)(i) shall be allocated by the state treasurer to be deposited into the restricted account,  
5074 Court Security Account, as provided in Section [78A-2-602](#).

5075 (k) The fee for filing a judgment, order, or decree of a court of another state or of the  
5076 United States is \$35.

5077 (l) The fee for filing a renewal of judgment in accordance with Section [78B-6-1801](#) is  
5078 50% of the fee for filing an original action seeking the same relief.

5079 (m) The fee for filing probate or child custody documents from another state is \$35.

5080 (n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the  
5081 State Tax Commission is \$30.

5082 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state  
5083 or a judgment, order, or decree of an administrative agency, commission, board, council, or  
5084 hearing officer of this state or of its political subdivisions other than the State Tax  
5085 Commission, is \$50.

5086 (o) The fee for filing a judgment by confession without action under Section  
5087 78B-5-205 is \$35.

5088 (p) The fee for filing an award of arbitration for confirmation, modification, or  
5089 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an  
5090 action before the court is \$35.

5091 (q) The fee for filing a petition or counter-petition to modify a domestic relations order  
5092 other than a protective order or stalking injunction is \$100.

5093 (r) The fee for filing any accounting required by law is:

5094 (i) \$15 for an estate valued at \$50,000 or less;

5095 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

5096 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

5097 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

5098 (v) \$175 for an estate valued at more than \$168,000.

5099 (s) The fee for filing a demand for a civil jury is \$250.

5100 (t) The fee for filing a notice of deposition in this state concerning an action pending in  
5101 another state under Utah Rules of Civil Procedure, Rule 30 is \$35.

5102 (u) The fee for filing documents that require judicial approval but are not part of an  
5103 action before the court is \$35.

5104 (v) The fee for a petition to open a sealed record is \$35.

5105 (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in  
5106 addition to any fee for a complaint or petition.

5107 (x) (i) The fee for a petition for authorization for a minor to marry required by Section  
5108 30-1-9 is \$5.

5109 (ii) The fee for a petition for emancipation of a minor provided in Title 80, Chapter 7,

5110 Emancipation, is \$50.

5111 (y) The fee for a certificate issued under Section [~~26-2-25~~] [26B-8-128](#) is \$8.

5112 (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per  
5113 page.

5114 (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents  
5115 per page.

5116 (bb) The Judicial Council shall, by rule, establish a schedule of fees for copies of  
5117 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,  
5118 Government Records Access and Management Act. Fees under Subsection (1)(bb) and (cc)  
5119 shall be credited to the court as a reimbursement of expenditures.

5120 (cc) The Judicial Council may, by rule, establish a reasonable fee to allow members of  
5121 the public to conduct a limited amount of searches on the Xchange database without having to  
5122 pay a monthly subscription fee.

5123 (dd) There is no fee for services or the filing of documents not listed in this section or  
5124 otherwise provided by law.

5125 (ee) Except as provided in this section, all fees collected under this section are paid to  
5126 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk  
5127 accepts the pleading for filing or performs the requested service.

5128 (ff) The filing fees under this section may not be charged to the state, the state's  
5129 agencies, or political subdivisions filing or defending any action. In judgments awarded in  
5130 favor of the state, its agencies, or political subdivisions, except the Office of Recovery  
5131 Services, the court shall order the filing fees and collection costs to be paid by the judgment  
5132 debtor. The sums collected under this Subsection (1)(ff) shall be applied to the fees after credit  
5133 to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

5134 (2) (a) (i) From March 17, 1994, until June 30, 1998, the state court administrator shall  
5135 transfer all revenues representing the difference between the fees in effect after May 2, 1994,  
5136 and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities  
5137 Construction and Management Capital Projects Fund.

5138 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities  
5139 Construction and Management shall use up to \$3,750,000 of the revenue deposited into the  
5140 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to

5141 initiate the development of a courts complex in Salt Lake City.

5142 (B) If the Legislature approves funding for construction of a courts complex in Salt  
5143 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and  
5144 Management shall use the revenue deposited into the Capital Projects Fund under this  
5145 Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

5146 (C) After the courts complex is completed and all bills connected with its construction  
5147 have been paid, the Division of Facilities Construction and Management shall use any money  
5148 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal  
5149 District Court building.

5150 (iii) The Division of Facilities Construction and Management may enter into  
5151 agreements and make expenditures related to this project before the receipt of revenues  
5152 provided for under this Subsection (2)(a)(iii).

5153 (iv) The Division of Facilities Construction and Management shall:

5154 (A) make those expenditures from unexpended and unencumbered building funds  
5155 already appropriated to the Capital Projects Fund; and

5156 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for  
5157 under this Subsection (2).

5158 (b) After June 30, 1998, the state court administrator shall ensure that all revenues  
5159 representing the difference between the fees in effect after May 2, 1994, and the fees in effect  
5160 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted  
5161 account.

5162 (c) The Division of Finance shall deposit all revenues received from the state court  
5163 administrator into the restricted account created by this section.

5164 (d) (i) From May 1, 1995, until June 30, 1998, the state court administrator shall  
5165 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor  
5166 Vehicles, in a court of record to the Division of Facilities Construction and Management  
5167 Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be  
5168 calculated on the balance of the fine or bail forfeiture paid.

5169 (ii) After June 30, 1998, the state court administrator or a municipality shall transfer \$7  
5170 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a  
5171 court of record to the Division of Finance for deposit in the restricted account created by this

5172 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the  
5173 balance of the fine or bail forfeiture paid.

5174 (3) (a) There is created within the General Fund a restricted account known as the State  
5175 Courts Complex Account.

5176 (b) The Legislature may appropriate money from the restricted account to the state  
5177 court administrator for the following purposes only:

5178 (i) to repay costs associated with the construction of the court complex that were  
5179 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

5180 (ii) to cover operations and maintenance costs on the court complex.

5181 (4) (a) The requirement of a fee for filing a petition for expungement under Subsection  
5182 (1)(i) is suspended from May 4, 2022, to June 30, 2023.

5183 (b) An individual may not be charged a fee for filing a petition for expungement during  
5184 the time period described in Subsection (4)(a).

5185 Section 84. Section 78A-5-201 is amended to read:

5186 **78A-5-201. Creation and expansion of existing drug court programs -- Definition**  
5187 **of drug court program -- Criteria for participation in drug court programs -- Reporting**  
5188 **requirements.**

5189 (1) There may be created a drug court program in any judicial district that  
5190 demonstrates:

5191 (a) the need for a drug court program; and

5192 (b) the existence of a collaborative strategy between the court, prosecutors, defense  
5193 counsel, corrections, and substance abuse treatment services to reduce substance abuse by  
5194 offenders.

5195 (2) The collaborative strategy in each drug court program shall:

5196 (a) include monitoring and evaluation components to measure program effectiveness;  
5197 and

5198 (b) be submitted to, for the purpose of coordinating the disbursement of funding, the:

5199 (i) executive director of the Department of [~~Human Services~~] Health and Human  
5200 Services;

5201 (ii) executive director of the Department of Corrections; and

5202 (iii) state court administrator.



- 5203 (3) (a) Funds disbursed to a drug court program shall be allocated as follows:
- 5204 (i) 87% to the Department of [~~Human Services~~] Health and Human Services for
- 5205 testing, treatment, and case management; and
- 5206 (ii) 13% to the Administrative Office of the Courts for increased judicial and court
- 5207 support costs.
- 5208 (b) This provision does not apply to federal block grant funds.
- 5209 (4) A drug court program shall include continuous judicial supervision using a
- 5210 cooperative approach with prosecutors, defense counsel, corrections, substance abuse treatment
- 5211 services, juvenile court probation, and the Division of Child and Family Services as appropriate
- 5212 to promote public safety, protect participants' due process rights, and integrate substance abuse
- 5213 treatment with justice system case processing.
- 5214 (5) Screening criteria for participation in a drug court program shall include:
- 5215 (a) a plea to, conviction of, or adjudication for a nonviolent drug offense or
- 5216 drug-related offense;
- 5217 (b) an agreement to frequent alcohol and other drug testing;
- 5218 (c) participation in one or more substance abuse treatment programs; and
- 5219 (d) an agreement to submit to sanctions for noncompliance with drug court program
- 5220 requirements.
- 5221 (6) (a) The Judicial Council shall develop rules prescribing eligibility requirements for
- 5222 participation in adult criminal drug courts.
- 5223 (b) Acceptance of an offender into a drug court shall be based on a risk and needs
- 5224 assessment, without regard to the nature of the offense.
- 5225 (c) A plea to, conviction of, or adjudication for a felony offense is not required for
- 5226 participation in a drug court program.
- 5227 Section 85. Section **78A-6-103** is amended to read:
- 5228 **78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions --**
- 5229 **Findings -- Transfer of a case from another court.**
- 5230 (1) Except as otherwise provided by Sections [78A-5-102.5](#) and [78A-7-106](#), the juvenile
- 5231 court has original jurisdiction over:
- 5232 (a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal,
- 5233 state, or federal law, that was committed by a child;

- 5234 (b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal,  
5235 state, or federal law, that was committed by an individual:
- 5236 (i) who is under 21 years old at the time of all court proceedings; and  
5237 (ii) who was under 18 years old at the time the offense was committed; and  
5238 (c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state  
5239 law, that was committed:
- 5240 (i) by an individual:
- 5241 (A) who was 18 years old and enrolled in high school at the time of the offense; and  
5242 (B) who is under 21 years old at the time of all court proceedings; and  
5243 (ii) on school property where the individual was enrolled:
- 5244 (A) when school was in session; or  
5245 (B) during a school-sponsored activity, as defined in Subsection [53G-8-211\(1\)\(k\)](#).  
5246 (2) The juvenile court has original jurisdiction over any proceeding concerning:  
5247 (a) a child who is an abused child, neglected child, or dependent child;  
5248 (b) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child  
5249 Protective Orders;
- 5250 (c) the appointment of a guardian of the individual or other guardian of a minor who  
5251 comes within the court's jurisdiction under other provisions of this section;
- 5252 (d) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;  
5253 (e) the termination of parental rights in accordance with Title 80, Chapter 4,  
5254 Termination and Restoration of Parental Rights, including termination of residual parental  
5255 rights and duties;
- 5256 (f) the treatment or commitment of a minor who has an intellectual disability;  
5257 (g) the judicial consent to the marriage of a minor who is 16 or 17 years old in  
5258 accordance with Section [30-1-9](#);
- 5259 (h) an order for a parent or a guardian of a child under Subsection [80-6-705\(3\)](#);  
5260 (i) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;  
5261 (j) the treatment or commitment of a child with a mental illness;  
5262 (k) the commitment of a child to a secure drug or alcohol facility in accordance with  
5263 Section [~~62A-15-301~~] [26B-5-204](#);
- 5264 (l) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part

5265 4, Competency;

5266 (m) de novo review of final agency actions resulting from an informal adjudicative  
5267 proceeding as provided in Section 63G-4-402;

5268 (n) adoptions conducted in accordance with the procedures described in Title 78B,  
5269 Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order  
5270 terminating the rights of a parent and finds that adoption is in the best interest of the child;

5271 (o) an ungovernable or runaway child who is referred to the juvenile court by the  
5272 Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the  
5273 Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:

5274 (i) is beyond the control of the child's parent, guardian, or custodian to the extent that  
5275 the child's behavior or condition endangers the child's own welfare or the welfare of others; or

5276 (ii) has run away from home; and

5277 (p) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult  
5278 alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply  
5279 with a promise to appear and bring a child to the juvenile court.

5280 (3) It is not necessary for a minor to be adjudicated for an offense or violation of the  
5281 law under Section 80-6-701, for the juvenile court to exercise jurisdiction under Subsection  
5282 (2)(p).

5283 (4) This section does not restrict the right of access to the juvenile court by private  
5284 agencies or other persons.

5285 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases  
5286 arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

5287 (6) The juvenile court has jurisdiction to make a finding of substantiated,  
5288 unsubstantiated, or without merit, in accordance with Section 80-3-404.

5289 (7) The juvenile court has jurisdiction over matters transferred to the juvenile court by  
5290 another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

5291 Section 86. Section 78A-6-208 is amended to read:

5292 **78A-6-208. Mental health evaluations -- Duty of administrator.**

5293 (1) The chief administrative officer of the juvenile court, with the approval of the  
5294 board, and the executive director of the Department of ~~[Health]~~ Health and Human Services,  
5295 and director of the ~~[Division of Substance Abuse]~~ Office of Substance Use and Mental Health

5296 shall from time to time agree upon an appropriate plan:

5297 (a) for obtaining mental health services and health services for the juvenile court from  
5298 the state and local health departments and programs of mental health; and

5299 (b) for assistance by the Department of ~~[Health]~~ Health and Human Services or the  
5300 ~~[Division of Substance Abuse]~~ Office of Substance Use and Mental Health in securing for the  
5301 juvenile court special health, mental health, juvenile competency evaluations, and related  
5302 services including community mental health services not already available from the  
5303 Department of ~~[Health]~~ Health and Human Services and the ~~[Division of Substance Abuse]~~  
5304 Office of Substance Use and Mental Health.

5305 (2) The Legislature may provide an appropriation to the Department of ~~[Health]~~ Health  
5306 and Human Services and the ~~[Division of Substance Abuse]~~ Office of Substance Use and  
5307 Mental Health for the services under Subsection (1).

5308 Section 87. Section **78A-6-209** is amended to read:

5309 **78A-6-209. Court records -- Inspection.**

5310 (1) The juvenile court and the juvenile court's probation department shall keep records  
5311 as required by the board and the presiding judge.

5312 (2) A court record shall be open to inspection by:

5313 (a) the parents or guardian of a child, a minor who is at least 18 years old, other parties  
5314 in the case, the attorneys, and agencies to which custody of a minor has been transferred;

5315 (b) for information relating to adult offenders alleged to have committed a sexual  
5316 offense, a felony or class A misdemeanor drug offense, or an offense against the person under  
5317 Title 76, Chapter 5, Offenses Against the Individual, the State Board of Education for the  
5318 purpose of evaluating whether an individual should be permitted to obtain or retain a license as  
5319 an educator or serve as an employee or volunteer in a school, with the understanding that the  
5320 State Board of Education must provide the individual with an opportunity to respond to any  
5321 information gathered from the State Board of Education's inspection of the records before the  
5322 State Board of Education makes a decision concerning licensure or employment;

5323 (c) the Criminal Investigations and Technical Services Division, established in Section  
5324 [53-10-103](#), for the purpose of a criminal history background check for the purchase of a firearm  
5325 and establishing good character for issuance of a concealed firearm permit as provided in  
5326 Section [53-5-704](#);

5327 (d) the Division of Child and Family Services for the purpose of Child Protective  
5328 Services Investigations in accordance with Sections [80-2-602](#) and [80-2-701](#) and administrative  
5329 hearings in accordance with Section [80-2-707](#);

5330 (e) the ~~[Office of Licensing]~~ Division of Licensing and Background Checks for the  
5331 purpose of conducting a background check in accordance with Section ~~[[62A-2-120](#)]~~  
5332 [26B-2-120](#);

5333 (f) for information related to a minor who has committed a sexual offense, a felony, or  
5334 an offense that if committed by an adult would be a misdemeanor, the Department of ~~[Health]~~  
5335 Health and Human Services for the purpose of evaluating under the provisions of Subsection  
5336 ~~[[26-39-404\(3\)](#)]~~ [26B-2-406\(3\)](#) whether a licensee should be permitted to obtain or retain a  
5337 license to provide child care, with the understanding that the department must provide the  
5338 individual who committed the offense with an opportunity to respond to any information  
5339 gathered from the Department of ~~[Health's]~~ Health and Human Services' inspection of records  
5340 before the Department of ~~[Health]~~ Health and Human Services makes a decision concerning  
5341 licensure;

5342 (g) for information related to a minor who has committed a sexual offense, a felony, or  
5343 an offense that if committed by an adult would be a misdemeanor, the Department of ~~[Health]~~  
5344 Health and Human Services to determine whether an individual meets the background  
5345 screening requirements of ~~[Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access]~~  
5346 Sections [26B-2-238](#) through [26B-2-241](#), with the understanding that the department must  
5347 provide the individual who committed the offense an opportunity to respond to any information  
5348 gathered from the Department of ~~[Health's]~~ Health and Human Services' inspection of records  
5349 before the Department of ~~[Health]~~ Health and Human Services makes a decision under that  
5350 part; and

5351 (h) for information related to a minor who has committed a sexual offense, a felony, or  
5352 an offense that if committed by an adult would be a misdemeanor, the Department of ~~[Health]~~  
5353 Health and Human Services to determine whether to grant, deny, or revoke background  
5354 clearance under Section ~~[[26-8a-310](#)]~~ [26B-4-124](#) for an individual who is seeking or who has  
5355 obtained an emergency medical service personnel license under Section ~~[[26-8a-302](#)]~~  
5356 [26B-4-116](#), with the understanding that the Department of ~~[Health]~~ Health and Human  
5357 Services must provide the individual who committed the offense an opportunity to respond to

5358 any information gathered from the Department of [Health's] Health and Human Services'  
5359 inspection of records before the Department of [Health] Health and Human Services makes a  
5360 determination.

5361 (3) With the consent of the juvenile court, a court record may be inspected by the child,  
5362 by persons having a legitimate interest in the proceedings, and by persons conducting pertinent  
5363 research studies.

5364 (4) If a petition is filed charging a minor who is 14 years old or older with an offense  
5365 that would be a felony if committed by an adult, the juvenile court shall make available to any  
5366 person upon request the petition, any adjudication or disposition orders, and the delinquency  
5367 history summary of the minor charged unless the records are closed by the juvenile court upon  
5368 findings on the record for good cause.

5369 (5) A juvenile probation officer's records and reports of social and clinical studies are  
5370 not open to inspection, except by consent of the juvenile court, given under rules adopted by  
5371 the board.

5372 (6) The juvenile court may charge a reasonable fee to cover the costs associated with  
5373 retrieving a requested record that has been archived.

5374 Section 88. Section **78A-6-356** is amended to read:

5375 **78A-6-356. Child support obligation when custody of a child is vested in an**  
5376 **individual or institution.**

5377 (1) As used in this section:

5378 (a) "Office" means the Office of Recovery Services.

5379 (b) "State custody" means that a child is in the custody of a state department, division,  
5380 or agency, including secure care.

5381 (2) Under this section, a juvenile court may not issue a child support order against an  
5382 individual unless:

5383 (a) the individual is served with notice that specifies the date and time of a hearing to  
5384 determine the financial support of a specified child;

5385 (b) the individual makes a voluntary appearance; or

5386 (c) the individual submits a waiver of service.

5387 (3) Except as provided in Subsection (11), when a juvenile court places a child in state  
5388 custody or if the guardianship of the child has been granted to another party and an agreement

5389 for a guardianship subsidy has been signed by the guardian, the juvenile court:

5390 (a) shall order the child's parent, guardian, or other obligated individual to pay child  
5391 support for each month the child is in state custody or cared for under a grant of guardianship;

5392 (b) shall inform the child's parent, guardian, or other obligated individual, verbally and  
5393 in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12,  
5394 Utah Child Support Act; and

5395 (c) may refer the establishment of a child support order to the office.

5396 (4) When a juvenile court chooses to refer a case to the office to determine support  
5397 obligation amounts in accordance with Title 78B, Chapter 12, Utah Child Support Act, the  
5398 juvenile court shall:

5399 (a) make the referral within three working days after the day on which the juvenile  
5400 court holds the hearing described in Subsection (2)(a); and

5401 (b) inform the child's parent, guardian, or other obligated individual of:

5402 (i) the requirement to contact the office within 30 days after the day on which the  
5403 juvenile court holds the hearing described in Subsection (2)(a); and

5404 (ii) the penalty described in Subsection (6) for failure to contact the office.

5405 (5) Liability for child support ordered under Subsection (3) shall accrue:

5406 (a) except as provided in Subsection (5)(b), beginning on day 61 after the day on which  
5407 the juvenile court holds the hearing described in Subsection (2)(a) if there is no existing child  
5408 support order for the child; or

5409 (b) beginning on the day the child is removed from the child's home, including time  
5410 spent in detention or sheltered care, if the child is removed after having been returned to the  
5411 child's home from state custody.

5412 (6) (a) If the child's parent, guardian, or other obligated individual contacts the office  
5413 within 30 days after the day on which the court holds the hearing described in Subsection  
5414 (2)(a), the child support order may not include a judgment for past due support for more than  
5415 two months.

5416 (b) Notwithstanding Subsections (5) and (6)(a), the juvenile court may order the  
5417 liability of support to begin to accrue from the date of the proceeding referenced in Subsection  
5418 (3) if:

5419 (i) the court informs the child's parent, guardian, or other obligated individual, as

5420 described in Subsection (4)(b), and the parent, guardian, or other obligated individual fails to  
5421 contact the office within 30 days after the day on which the court holds the hearing described in  
5422 Subsection (2)(a); and

5423 (ii) the office took reasonable steps under the circumstances to contact the child's  
5424 parent, guardian, or other obligated individual within 30 days after the last day on which the  
5425 parent, guardian, or other obligated individual was required to contact the office to facilitate the  
5426 establishment of a child support order.

5427 (c) For purposes of Subsection (6)(b)(ii), the office is presumed to have taken  
5428 reasonable steps if the office:

5429 (i) has a signed, returned receipt for a certified letter mailed to the address of the child's  
5430 parent, guardian, or other obligated individual regarding the requirement that a child support  
5431 order be established; or

5432 (ii) has had a documented conversation, whether by telephone or in person, with the  
5433 child's parent, guardian, or other obligated individual regarding the requirement that a child  
5434 support order be established.

5435 (7) In collecting arrears, the office shall comply with Section [~~62A-11-320~~] [26B-9-219](#)  
5436 in setting a payment schedule or demanding payment in full.

5437 (8) (a) Unless a court orders otherwise, the child's parent, guardian, or other obligated  
5438 individual shall pay the child support to the office.

5439 (b) The clerk of the juvenile court, the office, or the department and the department's  
5440 divisions shall have authority to receive periodic payments for the care and maintenance of the  
5441 child, such as social security payments or railroad retirement payments made in the name of or  
5442 for the benefit of the child.

5443 (9) An existing child support order payable to a parent or other individual shall be  
5444 assigned to the department as provided in Section [~~62A-1-117~~] [26B-9-111](#).

5445 (10) (a) Subsections (4) through (9) do not apply if legal custody of a child is vested by  
5446 the juvenile court in an individual.

5447 (b) (i) If legal custody of a child is vested by the juvenile court in an individual, the  
5448 court may order the child's parent, guardian, or other obligated individual to pay child support  
5449 to the individual in whom custody is vested.

5450 (ii) In the same proceeding, the juvenile court shall inform the child's parent, guardian,



5451 or other obligated individual, verbally and in writing, of the requirement to pay child support in  
5452 accordance with Title 78B, Chapter 12, Utah Child Support Act.

5453 (11) The juvenile court may not order an individual to pay child support for a child in  
5454 state custody if:

5455 (a) the individual's only form of income is a government-issued disability benefit;

5456 (b) the benefit described in Subsection (11)(a) is issued because of the individual's  
5457 disability, and not the child's disability; and

5458 (c) the individual provides the juvenile court and the office evidence that the individual  
5459 meets the requirements of Subsections (11)(a) and (b).

5460 (12) (a) The child's parent or another obligated individual is not responsible for child  
5461 support for the period of time that the child is removed from the child's home by the Division  
5462 of Child and Family Services if:

5463 (i) the juvenile court finds that there were insufficient grounds for the removal of the  
5464 child; and

5465 (ii) the child is returned to the home of the child's parent or guardian based on the  
5466 finding described in Subsection (12)(a)(i).

5467 (b) If the juvenile court finds insufficient grounds for the removal of the child under  
5468 Subsection (12)(a), but that the child is to remain in state custody, the juvenile court shall order  
5469 that the child's parent or another obligated individual is responsible for child support beginning  
5470 on the day on which it became improper to return the child to the home of the child's parent or  
5471 guardian.

5472 (13) After the juvenile court or the office establishes an individual's child support  
5473 obligation ordered under Subsection (3), the office shall waive the obligation without further  
5474 order of the juvenile court if:

5475 (a) the individual's child support obligation is established under the low income table  
5476 in Section [78B-12-302](#) or [78B-12-304](#); or

5477 (b) the individual's only source of income is a means-tested, income replacement  
5478 payment of aid, including:

5479 (i) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment  
5480 Program; or

5481 (ii) cash benefits received under General Assistance, social security income, or social

5482 security disability income.

5483 Section 89. Section **78B-3-403** is amended to read:

5484 **78B-3-403. Definitions.**

5485 As used in this part:

5486 (1) "Audiologist" means a person licensed to practice audiology under Title 58,  
5487 Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

5488 (2) "Certified social worker" means a person licensed to practice as a certified social  
5489 worker under Section [58-60-205](#).

5490 (3) "Chiropractic physician" means a person licensed to practice chiropractic under  
5491 Title 58, Chapter 73, Chiropractic Physician Practice Act.

5492 (4) "Clinical social worker" means a person licensed to practice as a clinical social  
5493 worker under Section [58-60-205](#).

5494 (5) "Commissioner" means the commissioner of insurance as provided in Section  
5495 [31A-2-102](#).

5496 (6) "Dental hygienist" means a person licensed to engage in the practice of dental  
5497 hygiene as defined in Section [58-69-102](#).

5498 (7) "Dental care provider" means any person, partnership, association, corporation, or  
5499 other facility or institution who causes to be rendered or who renders dental care or  
5500 professional services as a dentist, dental hygienist, or other person rendering similar care and  
5501 services relating to or arising out of the practice of dentistry or the practice of dental hygiene,  
5502 and the officers, employees, or agents of any of the above acting in the course and scope of  
5503 their employment.

5504 (8) "Dentist" means a person licensed to engage in the practice of dentistry as defined  
5505 in Section [58-69-102](#).

5506 (9) "Division" means the Division of Professional Licensing created in Section  
5507 [58-1-103](#).

5508 (10) "Future damages" includes a judgment creditor's damages for future medical  
5509 treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and  
5510 suffering.

5511 (11) "Health care" means any act or treatment performed or furnished, or which should  
5512 have been performed or furnished, by any health care provider for, to, or on behalf of a patient

5513 during the patient's medical care, treatment, or confinement.

5514 (12) "Health care facility" means general acute hospitals, specialty hospitals, home  
5515 health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers,  
5516 ambulatory surgical facilities, small health care facilities, health care facilities owned or  
5517 operated by health maintenance organizations, and end stage renal disease facilities.

5518 (13) "Health care provider" includes any person, partnership, association, corporation,  
5519 or other facility or institution who causes to be rendered or who renders health care or  
5520 professional services as a hospital, health care facility, physician, physician assistant, registered  
5521 nurse, licensed practical nurse, nurse-midwife, licensed direct-entry midwife, dentist, dental  
5522 hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, physical  
5523 therapist assistant, podiatric physician, psychologist, chiropractic physician, naturopathic  
5524 physician, osteopathic physician, osteopathic physician and surgeon, audiologist,  
5525 speech-language pathologist, clinical social worker, certified social worker, social service  
5526 worker, marriage and family counselor, practitioner of obstetrics, licensed athletic trainer, or  
5527 others rendering similar care and services relating to or arising out of the health needs of  
5528 persons or groups of persons and officers, employees, or agents of any of the above acting in  
5529 the course and scope of their employment.

5530 (14) "Hospital" means a public or private institution licensed under [~~Title 26, Chapter~~  
5531 ~~21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health  
5532 Care Facility Licensing and Inspection.

5533 (15) "Licensed athletic trainer" means a person licensed under Title 58, Chapter 40a,  
5534 Athletic Trainer Licensing Act.

5535 (16) "Licensed direct-entry midwife" means a person licensed under the Direct-entry  
5536 Midwife Act to engage in the practice of direct-entry midwifery as defined in Section  
5537 [58-77-102](#).

5538 (17) "Licensed practical nurse" means a person licensed to practice as a licensed  
5539 practical nurse as provided in Section [58-31b-301](#).

5540 (18) "Malpractice action against a health care provider" means any action against a  
5541 health care provider, whether in contract, tort, breach of warranty, wrongful death, or  
5542 otherwise, based upon alleged personal injuries relating to or arising out of health care rendered  
5543 or which should have been rendered by the health care provider.

5544 (19) "Marriage and family therapist" means a person licensed to practice as a marriage  
5545 therapist or family therapist under Sections 58-60-305 and 58-60-405.

5546 (20) "Naturopathic physician" means a person licensed to engage in the practice of  
5547 naturopathic medicine as defined in Section 58-71-102.

5548 (21) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife  
5549 under Section 58-44a-301.

5550 (22) "Optometrist" means a person licensed to practice optometry under Title 58,  
5551 Chapter 16a, Utah Optometry Practice Act.

5552 (23) "Osteopathic physician" means a person licensed to practice osteopathy under  
5553 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

5554 (24) "Patient" means a person who is under the care of a health care provider, under a  
5555 contract, express or implied.

5556 (25) "Periodic payments" means the payment of money or delivery of other property to  
5557 a judgment creditor at intervals ordered by the court.

5558 (26) "Pharmacist" means a person licensed to practice pharmacy as provided in Section  
5559 58-17b-301.

5560 (27) "Physical therapist" means a person licensed to practice physical therapy under  
5561 Title 58, Chapter 24b, Physical Therapy Practice Act.

5562 (28) "Physical therapist assistant" means a person licensed to practice physical therapy,  
5563 within the scope of a physical therapist assistant license, under Title 58, Chapter 24b, Physical  
5564 Therapy Practice Act.

5565 (29) "Physician" means a person licensed to practice medicine and surgery under Title  
5566 58, Chapter 67, Utah Medical Practice Act.

5567 (30) "Physician assistant" means a person licensed to practice as a physician assistant  
5568 under Title 58, Chapter 70a, Utah Physician Assistant Act.

5569 (31) "Podiatric physician" means a person licensed to practice podiatry under Title 58,  
5570 Chapter 5a, Podiatric Physician Licensing Act.

5571 (32) "Practitioner of obstetrics" means a person licensed to practice as a physician in  
5572 this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58, Chapter 68,  
5573 Utah Osteopathic Medical Practice Act.

5574 (33) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist

5575 Licensing Act, to engage in the practice of psychology as defined in Section 58-61-102.

5576 (34) "Registered nurse" means a person licensed to practice professional nursing as  
5577 provided in Section 58-31b-301.

5578 (35) "Relative" means a patient's spouse, parent, grandparent, stepfather, stepmother,  
5579 child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The term  
5580 includes relationships that are created as a result of adoption.

5581 (36) "Representative" means the spouse, parent, guardian, trustee, attorney-in-fact,  
5582 person designated to make decisions on behalf of a patient under a medical power of attorney,  
5583 or other legal agent of the patient.

5584 (37) "Social service worker" means a person licensed to practice as a social service  
5585 worker under Section 58-60-205.

5586 (38) "Speech-language pathologist" means a person licensed to practice  
5587 speech-language pathology under Title 58, Chapter 41, Speech-Language Pathology and  
5588 Audiology Licensing Act.

5589 (39) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or  
5590 omission proximately causing injury or damage to another.

5591 (40) "Unanticipated outcome" means the outcome of a medical treatment or procedure  
5592 that differs from an expected result.

5593 Section 90. Section 78B-3-405 is amended to read:

5594 **78B-3-405. Amount of award reduced by amounts of collateral sources available**  
5595 **to plaintiff -- No reduction where subrogation right exists -- Collateral sources defined --**  
5596 **Procedure to preserve subrogation rights -- Evidence admissible -- Exceptions.**

5597 (1) In all malpractice actions against health care providers as defined in Section  
5598 78B-3-403 in which damages are awarded to compensate the plaintiff for losses sustained, the  
5599 court shall reduce the amount of the award by the total of all amounts paid to the plaintiff from  
5600 all collateral sources which are available to him. No reduction may be made for collateral  
5601 sources for which a subrogation right exists as provided in this section nor shall there be a  
5602 reduction for any collateral payment not included in the award of damages.

5603 (2) Upon a finding of liability and an awarding of damages by the trier of fact, the court  
5604 shall receive evidence concerning the total amounts of collateral sources which have been paid  
5605 to or for the benefit of the plaintiff or are otherwise available to him. The court shall also take

5606 testimony of any amount which has been paid, contributed, or forfeited by, or on behalf of the  
5607 plaintiff or members of his immediate family to secure his right to any collateral source benefit  
5608 which he is receiving as a result of his injury, and shall offset any reduction in the award by  
5609 those amounts. Evidence may not be received and a reduction may not be made with respect to  
5610 future collateral source benefits except as specified in Subsection (5).

5611 (3) For purposes of this section "collateral source" means payments made to or for the  
5612 benefit of the plaintiff for:

5613 (a) medical expenses and disability payments payable under the United States Social  
5614 Security Act, any federal, state, or local income disability act, or any other public program,  
5615 except the federal programs which are required by law to seek subrogation;

5616 (b) any health, sickness, or income replacement insurance, automobile accident  
5617 insurance that provides health benefits or income replacement coverage, and any other similar  
5618 insurance benefits, except life insurance benefits available to the plaintiff, whether purchased  
5619 by the plaintiff or provided by others;

5620 (c) any contract or agreement of any person, group, organization, partnership, or  
5621 corporation to provide, pay for, or reimburse the costs of hospital, medical, dental, or other  
5622 health care services, except benefits received as gifts, contributions, or assistance made  
5623 gratuitously; and

5624 (d) any contractual or voluntary wage continuation plan provided by employers or any  
5625 other system intended to provide wages during a period of disability.

5626 (4) To preserve subrogation rights for amounts paid or received prior to settlement or  
5627 judgment, a provider of collateral sources shall, at least 30 days before settlement or trial of the  
5628 action, serve a written notice upon each health care provider against whom the malpractice  
5629 action has been asserted. The written notice shall state:

5630 (a) the name and address of the provider of collateral sources;

5631 (b) the amount of collateral sources paid;

5632 (c) the names and addresses of all persons who received payment; and

5633 (d) the items and purposes for which payment has been made.

5634 (5) Evidence is admissible of government programs that provide payments or benefits  
5635 available in the future to or for the benefit of the plaintiff to the extent available irrespective of  
5636 the recipient's ability to pay. Evidence of the likelihood or unlikelihood that the programs,

5637 payments, or benefits will be available in the future is also admissible. The trier of fact may  
5638 consider the evidence in determining the amount of damages awarded to a plaintiff for future  
5639 expenses.

5640 (6) A provider of collateral sources is not entitled to recover any amount of benefits  
5641 from a health care provider, the plaintiff, or any other person or entity as reimbursement for  
5642 collateral source payments made prior to settlement or judgment, including any payments made  
5643 under [~~Title 26, Chapter 19, Medical Benefits Recovery Act~~] Title 26B, Chapter 3, Part 10,  
5644 Medical Benefits Recovery, except to the extent that subrogation rights to amounts paid prior  
5645 to settlement or judgment are preserved as provided in this section.

5646 (7) All policies of insurance providing benefits affected by this section are construed in  
5647 accordance with this section.

5648 Section 91. Section **78B-3-701** is amended to read:

5649 **78B-3-701. Definitions.**

5650 As used in this part:

5651 (1) "Disability" has the same meaning as defined in Section [~~62A-5b-102~~] [26B-6-801](#).

5652 (2) "Search and rescue dog" means a dog:

5653 (a) with documented training to locate persons who are:

5654 (i) lost, missing, or injured; or

5655 (ii) trapped under debris as the result of a natural or man-made event; and

5656 (b) affiliated with an established search and rescue dog organization.

5657 (3) "Service animal" means:

5658 (a) a service animal, as defined in Section [~~62A-5b-102~~] [26B-6-801](#); or

5659 (b) a search and rescue dog.

5660 Section 92. Section **78B-4-501** is amended to read:

5661 **78B-4-501. Good Samaritan Law.**

5662 (1) As used in this section:

5663 (a) "Child" means an individual of such an age that a reasonable person would perceive

5664 the individual as unable to open the door of a locked motor vehicle, but in any case younger

5665 than 18 years of age.

5666 (b) "Emergency" means an unexpected occurrence involving injury, threat of injury, or

5667 illness to a person or the public, including motor vehicle accidents, disasters, actual or

5668 threatened discharges, removal or disposal of hazardous materials, and other accidents or  
5669 events of a similar nature.

5670 (c) "Emergency care" includes actual assistance or advice offered to avoid, mitigate, or  
5671 attempt to mitigate the effects of an emergency.

5672 (d) "First responder" means a state or local:

5673 (i) law enforcement officer, as defined in Section [53-13-103](#);

5674 (ii) firefighter, as defined in Section [34A-3-113](#); or

5675 (iii) emergency medical service provider, as defined in Section ~~[[26-8a-102](#)]~~ [26B-4-101](#).

5676 (e) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

5677 (2) A person who renders emergency care at or near the scene of, or during, an  
5678 emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a  
5679 result of any act or omission by the person rendering the emergency care, unless the person is  
5680 grossly negligent or caused the emergency.

5681 (3) (a) A person who gratuitously, and in good faith, assists a governmental agency or  
5682 political subdivision in an activity described in Subsections (3)(a)(i) through (iii) is not liable  
5683 for any civil damages or penalties as a result of any act or omission, unless the person  
5684 rendering assistance is grossly negligent in:

5685 (i) implementing measures to control the causes of epidemic and communicable  
5686 diseases and other conditions significantly affecting the public health, or necessary to protect  
5687 the public health as set out in Title 26A, Chapter 1, Local Health Departments;

5688 (ii) investigating and controlling suspected bioterrorism and disease as set out in [~~Title~~  
5689 ~~26, Chapter 23b, Detection of Public Health Emergencies Act]~~ Title 26B, Chapter 7, Part 3,  
5690 Treatment, Isolation, and Quarantine Procedures for Communicable Diseases; and

5691 (iii) responding to a national, state, or local emergency, a public health emergency as  
5692 defined in Section ~~[[26-23b-102](#)]~~ [26B-7-301](#), or a declaration by the president of the United  
5693 States or other federal official requesting public health-related activities.

5694 (b) The immunity in this Subsection (3) is in addition to any immunity or protection in  
5695 state or federal law that may apply.

5696 (4) (a) A person who uses reasonable force to enter a locked and unattended motor  
5697 vehicle to remove a confined child is not liable for damages in a civil action if all of the  
5698 following apply:



5699 (i) the person has a good faith belief that the confined child is in imminent danger of  
5700 suffering physical injury or death unless the confined child is removed from the motor vehicle;

5701 (ii) the person determines that the motor vehicle is locked and there is no reasonable  
5702 manner in which the person can remove the confined child from the motor vehicle;

5703 (iii) before entering the motor vehicle, the person notifies a first responder of the  
5704 confined child;

5705 (iv) the person does not use more force than is necessary under the circumstances to  
5706 enter the motor vehicle and remove the confined child from the vehicle; and

5707 (v) the person remains with the child until a first responder arrives at the motor vehicle.

5708 (b) A person is not immune from civil liability under this Subsection (4) if the person  
5709 fails to abide by any of the provisions of Subsection (4)(a) or commits any unnecessary or  
5710 malicious damage to the motor vehicle.

5711 Section 93. Section **78B-5-618** is amended to read:

5712 **78B-5-618. Patient access to medical records -- Third party access to medical**  
5713 **records.**

5714 (1) As used in this section:

5715 (a) "Health care provider" means the same as that term is defined in Section  
5716 [78B-3-403](#).

5717 (b) "Indigent individual" means an individual whose household income is at or below  
5718 100% of the federal poverty level as defined in Section ~~[26-18-3-9]~~ [26B-3-113](#).

5719 (c) "Inflation" means the unadjusted Consumer Price Index, as published by the Bureau  
5720 of Labor Statistics of the United States Department of Labor, that measures the average  
5721 changes in prices of goods and services purchased by urban wage earners and clerical workers.

5722 (d) "Qualified claim or appeal" means a claim or appeal under any:

5723 (i) provision of the Social Security Act as defined in Section [67-11-2](#); or

5724 (ii) federal or state financial needs-based benefit program.

5725 (2) Pursuant to Standards for Privacy of Individually Identifiable Health Information,  
5726 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or  
5727 receive a copy of the patient's records from a health care provider when that health care  
5728 provider is governed by the provisions of 45 C.F.R., Parts 160 and 164.

5729 (3) When a health care provider is not governed by Standards for Privacy of

5730 Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a  
5731 patient's personal representative may inspect or receive a copy of the patient's records unless  
5732 access to the records is restricted by law or judicial order.

5733 (4) A health care provider who provides a paper or electronic copy of a patient's  
5734 records to the patient or the patient's personal representative:

5735 (a) shall provide the copy within the deadlines required by the Health Insurance  
5736 Portability and Accountability Act of 1996, Administrative Simplification rule, 45 C.F.R. Sec.  
5737 164.524(b); and

5738 (b) may charge a reasonable cost-based fee provided that the fee includes only the cost  
5739 of:

5740 (i) copying, including the cost of supplies for and labor of copying; and

5741 (ii) postage, when the patient or patient's personal representative has requested the copy  
5742 be mailed.

5743 (5) Except for records provided by a health care provider under Section ~~[26-1-37]~~  
5744 [26B-8-411](#), a health care provider who provides a copy of a patient's records to a patient's  
5745 attorney, legal representative, or other third party authorized to receive records:

5746 (a) shall provide the copy within 30 days after receipt of notice; and

5747 (b) may charge a reasonable fee for paper or electronic copies, but may not exceed the  
5748 following rates:

5749 (i) \$30 per request for locating a patient's records;

5750 (ii) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32  
5751 cents per page for each additional page;

5752 (iii) the cost of postage when the requester has requested the copy be mailed;

5753 (iv) if requested, the health care provider will certify the record as a duplicate of the  
5754 original for a fee of \$20; and

5755 (v) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.

5756 (6) Except for records provided under Section ~~[26-1-37]~~ [26B-8-411](#), a contracted third  
5757 party service that provides medical records, other than a health care provider under Subsections  
5758 (4) and (5), who provides a copy of a patient's records to a patient's attorney, legal  
5759 representative, or other third party authorized to receive records:

5760 (a) shall provide the copy within 30 days after the request; and

5761 (b) may charge a reasonable fee for paper or electronic copies, but may not exceed the  
5762 following rates:

5763 (i) \$30 per request for locating a patient's records;

5764 (ii) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32  
5765 cents per page for each additional page;

5766 (iii) the cost of postage when the requester has requested the copy be mailed;

5767 (iv) if requested, the health care provider or the health care provider's contracted third  
5768 party service will certify the record as a duplicate of the original for a fee of \$20; and

5769 (v) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.

5770 (7) A health care provider or the health care provider's contracted third party service  
5771 shall deliver the medical records in the electronic medium customarily used by the health care  
5772 provider or the health care provider's contracted third party service or in a universally readable  
5773 image such as portable document format:

5774 (a) if the patient, patient's personal representative, or a third party authorized to receive  
5775 the records requests the records be delivered in an electronic medium; and

5776 (b) the original medical record is readily producible in an electronic medium.

5777 (8) (a) Except as provided in Subsections (8)(b) and (c), the per page fee in Subsections  
5778 (4), (5), and (6) applies to medical records reproduced electronically or on paper.

5779 (b) The per page fee for producing a copy of records in an electronic medium shall be  
5780 50% of the per page fee otherwise provided in this section, regardless of whether the original  
5781 medical records are stored in electronic format.

5782 (c) (i) A health care provider or a health care provider's contracted third party service  
5783 shall deliver the medical records in the electronic medium customarily used by the health care  
5784 provider or the health care provider's contracted third party service or in a universally readable  
5785 image, such as portable document format, if the patient, patient's personal representative,  
5786 patient's attorney, legal representative, or a third party authorized to receive the records,  
5787 requests the records be delivered in an electronic medium.

5788 (ii) An entity providing requested information under Subsection (8)(c)(i):

5789 (A) shall provide the requested information within 30 days; and

5790 (B) may not charge a fee for the electronic copy that exceeds \$150 regardless of the  
5791 number of pages and regardless of whether the original medical records are stored in electronic

5792 format.

5793 (9) (a) On January 1 of each year, the state treasurer shall adjust the following fees for  
5794 inflation:

5795 (i) the fee for providing patient's records under:

5796 (A) Subsections (5)(b)(i) through (ii); and

5797 (B) Subsections (6)(b)(i) through (ii); and

5798 (ii) the maximum amount that may be charged for an electronic copy under Subsection  
5799 (8)(c)(ii)(B).

5800 (b) On or before January 30 of each year, the state treasurer shall:

5801 (i) certify the inflation-adjusted fees and maximum amounts calculated under this  
5802 section; and

5803 (ii) notify the Administrative Office of the Courts of the information described in  
5804 Subsection (9)(b)(i) for posting on the court's website.

5805 (10) Notwithstanding Subsections (4) through (6), if a request for a medical record is  
5806 accompanied by documentation of a qualified claim or appeal, a health care provider or the  
5807 health care provider's contracted third party service:

5808 (a) may not charge a fee for the first copy of the record for each date of service that is  
5809 necessary to support the qualified claim or appeal in each calendar year;

5810 (b) for a second or subsequent copy in a calendar year of a date of service that is  
5811 necessary to support the qualified claim or appeal, may charge a reasonable fee that may not:

5812 (i) exceed 60 cents per page for paper photocopies;

5813 (ii) exceed a reasonable cost for copies of X-ray photographs and other health care  
5814 records produced by similar processes;

5815 (iii) include an administrative fee or additional service fee related to the production of  
5816 the medical record; or

5817 (iv) exceed the fee provisions for an electronic copy under Subsection (8)(c); and

5818 (c) shall provide the health record within 30 days after the day on which the request is  
5819 received by the health care provider.

5820 (11) (a) Except as otherwise provided in Subsections (4) through (6), a health care  
5821 provider or the health care provider's contracted third party service shall waive all fees under  
5822 this section for an indigent individual.

5823 (b) A health care provider or the health care provider's contracted third party service  
5824 may require the indigent individual or the indigent individual's authorized representative to  
5825 provide proof that the individual is an indigent individual by executing an affidavit.

5826 (c) (i) An indigent individual that receives copies of a medical record at no charge  
5827 under this Subsection (11) is limited to one copy for each date of service for each health care  
5828 provider, or the health care provider's contracted third party service, in each calendar year.

5829 (ii) Any request for additional copies in addition to the one copy allowed under  
5830 Subsection (11)(c) is subject to the fee provisions described in Subsection (10).

5831 (12) By January 1, 2023, a health care provider and all of the health care provider's  
5832 contracted third party health related services shall accept a properly executed form described in  
5833 [~~Title 26, Chapter 70, Standard Health Record Access Form~~] [Section 26B-8-514](#).

5834 Section 94. Section **78B-5-902** is amended to read:

5835 **78B-5-902. Definitions.**

5836 As used in this part:

5837 (1) "Communication" means an oral statement, written statement, note, record, report,  
5838 or document made during, or arising out of, a meeting between a law enforcement officer,  
5839 firefighter, emergency medical service provider, or rescue provider and a peer support team  
5840 member.

5841 (2) "Behavioral emergency services technician" means an individual who is licensed  
5842 under Section [~~26-8a-302~~] [26B-4-116](#) as:

5843 (a) a behavioral emergency services technician; or

5844 (b) an advanced behavioral emergency services technician.

5845 (3) "Emergency medical service provider or rescue unit peer support team member"  
5846 means a person who is:

5847 (a) an emergency medical service provider as defined in Section [~~26-8a-102~~]  
5848 [26B-4-101](#), a regular or volunteer member of a rescue unit acting as an emergency responder as  
5849 defined in Section [53-2a-502](#), or another person who has been trained in peer support skills;  
5850 and

5851 (b) designated by the chief executive of an emergency medical service agency or the  
5852 chief of a rescue unit as a member of an emergency medical service provider's peer support  
5853 team or as a member of a rescue unit's peer support team.

5854 (4) "Law enforcement or firefighter peer support team member" means a person who  
5855 is:

5856 (a) a peace officer, law enforcement dispatcher, civilian employee, or volunteer  
5857 member of a law enforcement agency, a regular or volunteer member of a fire department, or  
5858 another person who has been trained in peer support skills; and

5859 (b) designated by the commissioner of the Department of Public Safety, the executive  
5860 director of the Department of Corrections, a sheriff, a police chief, or a fire chief as a member  
5861 of a law enforcement agency's peer support team or a fire department's peer support team.

5862 (5) "Trained" means a person who has successfully completed a peer support training  
5863 program approved by the Peace Officer Standards and Training Division, the State Fire  
5864 Marshal's Office, or the Department of Health and Human Services, as applicable.

5865 Section 95. Section **78B-5-904** is amended to read:

5866 **78B-5-904. Exclusions for certain communications.**

5867 In accordance with the Utah Rules of Evidence, a behavioral emergency services  
5868 technician may refuse to disclose communications made by an individual during the delivery of  
5869 behavioral emergency services as defined in Section [~~26-8a-102~~] [26B-4-101](#).

5870 Section 96. Section **78B-6-103** is amended to read:

5871 **78B-6-103. Definitions.**

5872 As used in this part:

5873 (1) "Adoptee" means a person who:

5874 (a) is the subject of an adoption proceeding; or

5875 (b) has been legally adopted.

5876 (2) "Adoption" means the judicial act that:

5877 (a) creates the relationship of parent and child where it did not previously exist; and

5878 (b) except as provided in Subsections [78B-6-138](#)(2) and (4), terminates the parental  
5879 rights of any other person with respect to the child.

5880 (3) "Adoption document" means an adoption-related document filed with the office, a  
5881 petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted  
5882 in support of a supplementary birth certificate.

5883 (4) "Adoption service provider" means:

5884 (a) a child-placing agency;

5885 (b) a licensed counselor who has at least one year of experience providing professional  
5886 social work services to:

5887 (i) adoptive parents;

5888 (ii) prospective adoptive parents; or

5889 (iii) birth parents; or

5890 (c) the Office of Licensing within the Department of [~~Human Services~~] Health and  
5891 Human Services.

5892 (5) "Adoptive parent" means an individual who has legally adopted an adoptee.

5893 (6) "Adult" means an individual who is 18 years of age or older.

5894 (7) "Adult adoptee" means an adoptee who is 18 years of age or older and was adopted  
5895 as a minor.

5896 (8) "Adult sibling" means an adoptee's brother or sister, who is 18 years of age or older  
5897 and whose birth mother or father is the same as that of the adoptee.

5898 (9) "Birth mother" means the biological mother of a child.

5899 (10) "Birth parent" means:

5900 (a) a birth mother;

5901 (b) a man whose paternity of a child is established;

5902 (c) a man who:

5903 (i) has been identified as the father of a child by the child's birth mother; and

5904 (ii) has not denied paternity; or

5905 (d) an unmarried biological father.

5906 (11) "Child-placing agency" means an agency licensed to place children for adoption  
5907 under [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1,  
5908 Human Services Programs and Facilities.

5909 (12) "Cohabiting" means residing with another person and being involved in a sexual  
5910 relationship with that person.

5911 (13) "Division" means the Division of Child and Family Services, within the  
5912 Department of [~~Human Services~~] Health and Human Services, created in Section 80-2-201.

5913 (14) "Extra-jurisdictional child-placing agency" means an agency licensed to place  
5914 children for adoption by a district, territory, or state of the United States, other than Utah.

5915 (15) "Genetic and social history" means a comprehensive report, when obtainable, that

5916 contains the following information on an adoptee's birth parents, aunts, uncles, and  
5917 grandparents:

- 5918 (a) medical history;
- 5919 (b) health status;
- 5920 (c) cause of and age at death;
- 5921 (d) height, weight, and eye and hair color;
- 5922 (e) ethnic origins;
- 5923 (f) where appropriate, levels of education and professional achievement; and
- 5924 (g) religion, if any.

5925 (16) "Health history" means a comprehensive report of the adoptee's health status at the  
5926 time of placement for adoption, and medical history, including neonatal, psychological,  
5927 physiological, and medical care history.

5928 (17) "Identifying information" means information that is in the possession of the office  
5929 and that contains the name and address of a pre-existing parent or an adult adoptee, or other  
5930 specific information that by itself or in reasonable conjunction with other information may be  
5931 used to identify a pre-existing parent or an adult adoptee, including information on a birth  
5932 certificate or in an adoption document.

5933 (18) "Licensed counselor" means an individual who is licensed by the state, or another  
5934 state, district, or territory of the United States as a:

- 5935 (a) certified social worker;
- 5936 (b) clinical social worker;
- 5937 (c) psychologist;
- 5938 (d) marriage and family therapist;
- 5939 (e) clinical mental health counselor; or
- 5940 (f) an equivalent licensed professional of another state, district, or territory of the  
5941 United States.

5942 (19) "Man" means a male individual, regardless of age.

5943 (20) "Mature adoptee" means an adoptee who is adopted when the adoptee is an adult.

5944 (21) "Office" means the Office of Vital Records and Statistics within the Department  
5945 of ~~[Health]~~ Health and Human Services operating under ~~[Title 26, Chapter 2, Utah Vital~~  
5946 ~~Statistics Act]~~ Title 26B, Chapter 8, Part 1, Vital Statistics.



5947 (22) "Parent," for purposes of Section 78B-6-119, means any person described in  
5948 Subsections 78B-6-120(1)(b) through (f) from whom consent for adoption or relinquishment  
5949 for adoption is required under Sections 78B-6-120 through 78B-6-122.

5950 (23) "Potential birth father" means a man who:

5951 (a) is identified by a birth mother as a potential biological father of the birth mother's  
5952 child, but whose genetic paternity has not been established; and

5953 (b) was not married to the biological mother of the child described in Subsection  
5954 (23)(a) at the time of the child's conception or birth.

5955 (24) "Pre-existing parent" means:

5956 (a) a birth parent; or

5957 (b) an individual who, before an adoption decree is entered, is, due to an earlier  
5958 adoption decree, legally the parent of the child being adopted.

5959 (25) "Prospective adoptive parent" means an individual who seeks to adopt an adoptee.

5960 (26) "Relative" means:

5961 (a) an adult who is a grandparent, great grandparent, aunt, great aunt, uncle, great  
5962 uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, sibling of a child, or  
5963 first cousin of a child's parent; and

5964 (b) in the case of a child defined as an "Indian child" under the Indian Child Welfare  
5965 Act, 25 U.S.C. Sec. 1903, an "extended family member" as defined by that statute.

5966 (27) "Unmarried biological father" means a man who:

5967 (a) is the biological father of a child; and

5968 (b) was not married to the biological mother of the child described in Subsection  
5969 (27)(a) at the time of the child's conception or birth.

5970 Section 97. Section 78B-6-113 is amended to read:

5971 **78B-6-113. Prospective adoptive parent not a resident -- Preplacement**  
5972 **requirements.**

5973 (1) When an adoption petition is to be finalized in this state with regard to any  
5974 prospective adoptive parent who is not a resident of this state at the time a child is placed in  
5975 that person's home, the prospective adoptive parent shall comply with the provisions of  
5976 Sections 78B-6-128 and 78B-6-130.

5977 (2) Except as provided in Subsection 78B-6-131(2), in addition to the other

5978 requirements of this section, before a child in state custody is placed with a prospective foster  
5979 parent or a prospective adoptive parent, the Department of [~~Human Services~~] Health and  
5980 Human Services shall comply with Section 78B-6-131.

5981 Section 98. Section 78B-6-124 is amended to read:

5982 **78B-6-124. Persons who may take consents and relinquishments.**

5983 (1) A consent or relinquishment by a birth mother or an adoptee shall be signed before:

5984 (a) a judge of any court that has jurisdiction over adoption proceedings;

5985 (b) subject to Subsection (6), a person appointed by the judge described in Subsection

5986 (1)(a) to take consents or relinquishments; or

5987 (c) subject to Subsection (6), a person who is authorized by a child-placing agency to

5988 take consents or relinquishments, if the consent or relinquishment grants legal custody of the

5989 child to a child-placing agency or an extra-jurisdictional child-placing agency.

5990 (2) If the consent or relinquishment of a birth mother or adoptee is taken out of state it  
5991 shall be signed before:

5992 (a) subject to Subsection (6), a person who is authorized by a child-placing agency to

5993 take consents or relinquishments, if the consent or relinquishment grants legal custody of the

5994 child to a child-placing agency or an extra-jurisdictional child-placing agency;

5995 (b) subject to Subsection (6), a person authorized or appointed to take consents or

5996 relinquishments by a court of this state that has jurisdiction over adoption proceedings;

5997 (c) a court that has jurisdiction over adoption proceedings in the state where the

5998 consent or relinquishment is taken; or

5999 (d) a person authorized, under the laws of the state where the consent or relinquishment

6000 is taken, to take consents or relinquishments of a birth mother or adoptee.

6001 (3) The consent or relinquishment of any other person or agency as required by Section

6002 78B-6-120 may be signed before a Notary Public or any person authorized to take a consent or

6003 relinquishment under Subsection (1) or (2).

6004 (4) A person, authorized by Subsection (1) or (2) to take consents or relinquishments,

6005 shall certify to the best of his information and belief that the person executing the consent or

6006 relinquishment has read and understands the consent or relinquishment and has signed it freely

6007 and voluntarily.

6008 (5) A person executing a consent or relinquishment is entitled to receive a copy of the

6009 consent or relinquishment.

6010 (6) A signature described in Subsection (1)(b), (1)(c), (2)(a), or (2)(b), shall be:

6011 (a) notarized; or

6012 (b) witnessed by two individuals who are not members of the birth mother's or the  
6013 adoptee's immediate family.

6014 (7) Except as provided in Subsection [~~62A-2-108.6(2)~~] 26B-2-127(2), a transfer of  
6015 relinquishment from one child-placing agency to another child-placing agency shall be signed  
6016 before a Notary Public.

6017 Section 99. Section **78B-6-128** is amended to read:

6018 **78B-6-128. Preplacement adoptive evaluations -- Exceptions.**

6019 (1) (a) Except as otherwise provided in this section, a child may not be placed in an  
6020 adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive  
6021 parent and the prospective adoptive home, has been conducted in accordance with the  
6022 requirements of this section.

6023 (b) Except as provided in Section **78B-6-131**, the court may, at any time, authorize  
6024 temporary placement of a child in a prospective adoptive home pending completion of a  
6025 preplacement adoptive evaluation described in this section.

6026 (c) (i) Subsection (1)(a) does not apply if a pre-existing parent has legal custody of the  
6027 child to be adopted and the prospective adoptive parent is related to that child or the  
6028 pre-existing parent as a stepparent, sibling by half or whole blood or by adoption, grandparent,  
6029 aunt, uncle, or first cousin, unless the court otherwise requests the preplacement adoption.

6030 (ii) The prospective adoptive parent described in this Subsection (1)(c) shall obtain the  
6031 information described in Subsections (2)(a) and (b), and file that documentation with the court  
6032 prior to finalization of the adoption.

6033 (d) (i) The preplacement adoptive evaluation shall be completed or updated within the  
6034 12-month period immediately preceding the placement of a child with the prospective adoptive  
6035 parent.

6036 (ii) If the prospective adoptive parent has previously received custody of a child for the  
6037 purpose of adoption, the preplacement adoptive evaluation shall be completed or updated  
6038 within the 12-month period immediately preceding the placement of a child with the  
6039 prospective adoptive parent and after the placement of the previous child with the prospective

6040 adoptive parent.

6041 (2) The preplacement adoptive evaluation shall include:

6042 (a) a criminal history background check regarding each prospective adoptive parent  
6043 and any other adult living in the prospective home, prepared no earlier than 18 months  
6044 immediately preceding placement of the child in accordance with the following:

6045 (i) if the child is in state custody, each prospective adoptive parent and any other adult  
6046 living in the prospective home shall submit fingerprints to the Department of [~~Human Services~~]  
6047 Health and Human Services, which shall perform a criminal history background check in  
6048 accordance with Section [~~62A-2-120~~] 26B-2-120; or

6049 (ii) subject to Subsection (3), if the child is not in state custody, an adoption service  
6050 provider or an attorney representing a prospective adoptive parent shall submit fingerprints  
6051 from the prospective adoptive parent and any other adult living in the prospective home to the  
6052 Criminal and Technical Services Division of Public Safety for a regional and nationwide  
6053 background check, to the Office of Licensing within the Department of [~~Human Services~~]  
6054 Health and Human Services for a background check in accordance with Section [~~62A-2-120~~]  
6055 26B-2-120, or to the Federal Bureau of Investigation;

6056 (b) a report containing all information regarding reports and investigations of child  
6057 abuse, neglect, and dependency, with respect to each prospective adoptive parent and any other  
6058 adult living in the prospective home, obtained no earlier than 18 months immediately preceding  
6059 the day on which the child is placed in the prospective home, pursuant to waivers executed by  
6060 each prospective adoptive parent and any other adult living in the prospective home, that:

6061 (i) if the prospective adoptive parent or the adult living in the prospective adoptive  
6062 parent's home is a resident of Utah, is prepared by the Department of [~~Human Services~~] Health  
6063 and Human Services from the records of the Department of [~~Human Services~~] Health and  
6064 Human Services; or

6065 (ii) if the prospective adoptive parent or the adult living in the prospective adoptive  
6066 parent's home is not a resident of Utah, prepared by the Department of [~~Human Services~~]  
6067 Health and Human Services, or a similar agency in another state, district, or territory of the  
6068 United States, where each prospective adoptive parent and any other adult living in the  
6069 prospective home resided in the five years immediately preceding the day on which the child is  
6070 placed in the prospective adoptive home;

6071 (c) in accordance with Subsection (6), a home study conducted by an adoption service  
6072 provider that is:

- 6073 (i) an expert in family relations approved by the court;
- 6074 (ii) a certified social worker;
- 6075 (iii) a clinical social worker;
- 6076 (iv) a marriage and family therapist;
- 6077 (v) a psychologist;
- 6078 (vi) a social service worker, if supervised by a certified or clinical social worker;
- 6079 (vii) a clinical mental health counselor; or
- 6080 (viii) an Office of Licensing employee within the Department of [~~Human Services~~]

6081 Health and Human Services who is trained to perform a home study; and

6082 (d) in accordance with Subsection (7), if the child to be adopted is a child who is in the  
6083 custody of any public child welfare agency, and is a child who has a special need as defined in  
6084 Section 80-2-801, the preplacement adoptive evaluation shall be conducted by the Department  
6085 of [~~Human Services~~] Health and Human Services or a child-placing agency that has entered  
6086 into a contract with the department to conduct the preplacement adoptive evaluations for  
6087 children with special needs.

6088 (3) For purposes of Subsection (2)(a)(ii), subject to Subsection (4), the criminal history  
6089 background check described in Subsection (2)(a)(ii) shall be submitted in a manner acceptable  
6090 to the court that will:

- 6091 (a) preserve the chain of custody of the results; and
- 6092 (b) not permit tampering with the results by a prospective adoptive parent or other  
6093 interested party.

6094 (4) In order to comply with Subsection (3), the manner in which the criminal history  
6095 background check is submitted shall be approved by the court.

6096 (5) Except as provided in Subsection 78B-6-131(2), in addition to the other  
6097 requirements of this section, before a child in state custody is placed with a prospective foster  
6098 parent or a prospective adoptive parent, the Department of [~~Human Services~~] Health and  
6099 Human Services shall comply with Section 78B-6-131.

6100 (6) (a) An individual described in Subsections (2)(c)(i) through (vii) shall be licensed  
6101 to practice under the laws of:

- 6102 (i) this state; or
- 6103 (ii) the state, district, or territory of the United States where the prospective adoptive  
6104 parent or other person living in the prospective adoptive home resides.
- 6105 (b) Neither the Department of [~~Human Services~~] Health and Human Services nor any  
6106 of the department's divisions may proscribe who qualifies as an expert in family relations or  
6107 who may conduct a home study under Subsection (2)(c).
- 6108 (c) The home study described in Subsection (2)(c) shall be a written document that  
6109 contains the following:
- 6110 (i) a recommendation to the court regarding the suitability of the prospective adoptive  
6111 parent for placement of a child;
- 6112 (ii) a description of in-person interviews with the prospective adoptive parent, the  
6113 prospective adoptive parent's children, and other individuals living in the home;
- 6114 (iii) a description of character and suitability references from at least two individuals  
6115 who are not related to the prospective adoptive parent and with at least one individual who is  
6116 related to the prospective adoptive parent;
- 6117 (iv) a medical history and a doctor's report, based upon a doctor's physical examination  
6118 of the prospective adoptive parent, made within two years before the date of the application;  
6119 and
- 6120 (v) a description of an inspection of the home to determine whether sufficient space  
6121 and facilities exist to meet the needs of the child and whether basic health and safety standards  
6122 are maintained.
- 6123 (7) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the  
6124 responsibility of the adopting parent.
- 6125 (8) The person conducting the preplacement adoptive evaluation shall, in connection  
6126 with the preplacement adoptive evaluation, provide the prospective adoptive parent with  
6127 literature approved by the Division of Child and Family Services relating to adoption, including  
6128 information relating to:
- 6129 (a) the adoption process;
- 6130 (b) developmental issues that may require early intervention; and
- 6131 (c) community resources that are available to the prospective adoptive parent.
- 6132 (9) A copy of the preplacement adoptive evaluation shall be filed with the court.

6133 Section 100. Section **78B-6-131** is amended to read:

6134 **78B-6-131. Child in custody of state -- Placement.**

6135 (1) Notwithstanding Sections **78B-6-128** through **78B-6-130**, and except as provided in  
6136 Subsection (2), a child who is in the legal custody of the state may not be placed with a  
6137 prospective foster parent or a prospective adoptive parent, unless, before the child is placed  
6138 with the prospective foster parent or the prospective adoptive parent:

6139 (a) a fingerprint based FBI national criminal history records check is conducted on the  
6140 prospective foster parent, prospective adoptive parent, and any other adult residing in the  
6141 household;

6142 (b) the Department of [~~Human Services~~] Health and Human Services conducts a check  
6143 of the child abuse and neglect registry in each state where the prospective foster parent or  
6144 prospective adoptive parent resided in the five years immediately preceding the day on which  
6145 the prospective foster parent or prospective adoptive parent applied to be a foster parent or  
6146 adoptive parent, to determine whether the prospective foster parent or prospective adoptive  
6147 parent is listed in the registry as having a substantiated or supported finding of child abuse or  
6148 neglect;

6149 (c) the Department of [~~Human Services~~] Health and Human Services conducts a check  
6150 of the child abuse and neglect registry of each state where each adult living in the home of the  
6151 prospective foster parent or prospective adoptive parent described in Subsection (1)(b) resided  
6152 in the five years immediately preceding the day on which the prospective foster parent or  
6153 prospective adoptive parent applied to be a foster parent or adoptive parent, to determine  
6154 whether the adult is listed in the registry as having a substantiated or supported finding of child  
6155 abuse or neglect; and

6156 (d) each person required to undergo a background check described in this section  
6157 passes the background check, pursuant to the provisions of Section [~~62A-2-120~~] 26B-2-120.

6158 (2) The requirements under Subsection (1) do not apply to the extent that:

6159 (a) federal law or rule permits otherwise; or

6160 (b) the requirements would prohibit the division or a court from placing a child with:

6161 (i) a noncustodial parent, under Section **80-2a-301**, **80-3-302**, or **80-3-303**; or

6162 (ii) a relative, under Section **80-2a-301**, **80-3-302**, or **80-3-303**, pending completion of  
6163 the background check described in Subsection (1).

6164 Section 101. Section **78B-6-142** is amended to read:

6165 **78B-6-142. Adoption order from foreign country.**

6166 (1) Except as otherwise provided by federal law, an adoption order rendered to a  
6167 resident of this state that is made by a foreign country shall be recognized by the courts of this  
6168 state and enforced as if the order were rendered by a court in this state.

6169 (2) A person who adopts a child in a foreign country may register the order in this state.

6170 A petition for registration of a foreign adoption order may be combined with a petition for a  
6171 name change. If the court finds that the foreign adoption order meets the requirements of

6172 Subsection (1), the court shall order the state registrar to:

6173 (a) file the order pursuant to Section **78B-6-137**; and

6174 (b) file a certificate of birth for the child pursuant to Section ~~[26-2-28]~~ **26B-8-131**.

6175 (3) If a clerk of the court is unable to establish the fact, time, and place of birth from  
6176 the documentation provided, a person holding a direct, tangible, and legitimate interest as  
6177 described in Subsection ~~[26-2-22(3)(a) or (b)]~~ **26B-8-125(3)(a) or (b)** may petition for a court  
6178 order establishing the fact, time, and place of a birth pursuant to Subsection ~~[26-2-15(1)]~~  
6179 **26B-8-119(1)**.

6180 Section 102. Section **78B-7-205** is amended to read:

6181 **78B-7-205. Service -- Income withholding -- Expiration.**

6182 (1) If the court enters an ex parte child protective order or a child protective order, the  
6183 court shall:

6184 (a) make reasonable efforts to ensure that the order is understood by the petitioner and  
6185 the respondent, if present;

6186 (b) as soon as possible transmit the order to the county sheriff for service; and

6187 (c) by the end of the next business day after the order is entered, transmit electronically  
6188 a copy of the order to any law enforcement agency designated by the petitioner and to the  
6189 statewide domestic violence network described in Section **78B-7-113**.

6190 (2) The county sheriff shall serve the order and transmit verification of service to the  
6191 statewide domestic violence network described in Section **78B-7-113** in an expeditious  
6192 manner. Any law enforcement agency may serve the order and transmit verification of service  
6193 to the statewide domestic violence network if the law enforcement agency has contact with the  
6194 respondent or if service by that law enforcement agency is in the best interests of the child.



6195 (3) When an order is served on a respondent in a jail, prison, or other holding facility,  
6196 the law enforcement agency managing the facility shall notify the petitioner of the respondent's  
6197 release. Notice to the petitioner consists of a prompt, good faith effort to provide notice,  
6198 including mailing the notice to the petitioner's last-known address.

6199 (4) Child support orders issued as part of a child protective order are subject to  
6200 mandatory income withholding under [~~Title 62A, Chapter 11, Part 4, Income Withholding in~~  
6201 ~~IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases~~] Title  
6202 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4,  
6203 Income Withholding in Non IV-D Cases.

6204 (5) (a) A child protective order issued against a respondent who is a parent, stepparent,  
6205 guardian, or custodian of the child who is the subject of the order expires 150 days after the day  
6206 on which the order is issued unless a different date is set by the court.

6207 (b) The court may not set a date on which a child protective order described in  
6208 Subsection (5)(a) expires that is more than 150 days after the day on which the order is issued  
6209 without a finding of good cause.

6210 (c) The court may review and extend the expiration date of a child protective order  
6211 described in Subsection (5)(a), but may not extend the expiration date more than 150 days after  
6212 the day on which the order is issued without a finding of good cause.

6213 (d) Notwithstanding Subsections (5)(a) through (c), a child protective order is not  
6214 effective after the day on which the child who is the subject of the order turns 18 years old and  
6215 the court may not extend the expiration date of a child protective order to a date after the day  
6216 on which the child who is the subject of the order turns 18 years old.

6217 (6) A child protective order issued against a respondent who is not a parent, stepparent,  
6218 guardian, or custodian of the child who is the subject of the order expires on the day on which  
6219 the child turns 18 years old.

6220 Section 103. Section **78B-7-603** is amended to read:

6221 **78B-7-603. Cohabitant abuse protective orders -- Ex parte cohabitant abuse**  
6222 **protective orders -- Modification of orders -- Service of process -- Duties of the court.**

6223 (1) If it appears from a petition for a protective order or a petition to modify a  
6224 protective order that domestic violence or abuse has occurred, that there is a substantial  
6225 likelihood domestic violence or abuse will occur, or that a modification of a protective order is

6226 required, a court may:

6227 (a) without notice, immediately issue an ex parte cohabitant abuse protective order or  
6228 modify a protective order ex parte as the court considers necessary to protect the petitioner and  
6229 all parties named to be protected in the petition; or

6230 (b) upon notice, issue a protective order or modify an order after a hearing, regardless  
6231 of whether the respondent appears.

6232 (2) A court may grant the following relief without notice in a protective order or a  
6233 modification issued ex parte:

6234 (a) enjoin the respondent from threatening to commit domestic violence or abuse,  
6235 committing domestic violence or abuse, or harassing the petitioner or any designated family or  
6236 household member;

6237 (b) prohibit the respondent from telephoning, contacting, or otherwise communicating  
6238 with the petitioner or any designated family or household member, directly or indirectly, with  
6239 the exception of any parent-time provisions in the ex parte order;

6240 (c) subject to Subsection (2)(e), prohibit the respondent from being within a specified  
6241 distance of the petitioner;

6242 (d) subject to Subsection (2)(e), order that the respondent is excluded from and is to  
6243 stay away from the following places and their premises:

6244 (i) the petitioner's residence or any designated family or household member's residence;

6245 (ii) the petitioner's school or any designated family or household member's school;

6246 (iii) the petitioner's or any designated family or household member's place of  
6247 employment;

6248 (iv) the petitioner's place of worship or any designated family or household member's  
6249 place of worship; or

6250 (v) any specified place frequented by the petitioner or any designated family or  
6251 household member;

6252 (e) if the petitioner or designated family or household member attends the same school  
6253 as the respondent, is employed at the same place of employment as the respondent, or attends  
6254 the same place of worship, the court:

6255 (i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent  
6256 from the respondent's school, place of employment, or place of worship; and

6257 (ii) may enter an order governing the respondent's conduct at the respondent's school,  
6258 place of employment, or place of worship;

6259 (f) upon finding that the respondent's use or possession of a weapon may pose a serious  
6260 threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a  
6261 firearm or other weapon specified by the court;

6262 (g) order possession and use of an automobile and other essential personal effects, and  
6263 direct the appropriate law enforcement officer to accompany the petitioner to the residence of  
6264 the parties to ensure that the petitioner is safely restored to possession of the residence,  
6265 automobile, and other essential personal effects, or to supervise the petitioner's or respondent's  
6266 removal of personal belongings;

6267 (h) order the respondent to maintain an existing wireless telephone contract or account;

6268 (i) grant to the petitioner or someone other than the respondent temporary custody of a  
6269 minor child of the parties;

6270 (j) order the appointment of an attorney guardian ad litem under Sections [78A-2-703](#)  
6271 and [78A-2-803](#);

6272 (k) prohibit the respondent from physically injuring, threatening to injure, or taking  
6273 possession of a household animal that is owned or kept by the petitioner;

6274 (l) prohibit the respondent from physically injuring or threatening to injure a household  
6275 animal that is owned or kept by the respondent;

6276 (m) order any further relief that the court considers necessary to provide for the safety  
6277 and welfare of the petitioner and any designated family or household member; and

6278 (n) if the petition requests child support or spousal support, at the hearing on the  
6279 petition order both parties to provide verification of current income, including year-to-date pay  
6280 stubs or employer statements of year-to-date or other period of earnings, as specified by the  
6281 court, and complete copies of tax returns from at least the most recent year.

6282 (3) A court may grant the following relief in a cohabitant abuse protective order or a  
6283 modification of an order after notice and hearing, regardless of whether the respondent appears:

6284 (a) grant the relief described in Subsection (2); and

6285 (b) specify arrangements for parent-time of any minor child by the respondent and  
6286 require supervision of that parent-time by a third party or deny parent-time if necessary to  
6287 protect the safety of the petitioner or child.

6288 (4) In addition to the relief granted under Subsection (3), the court may order the  
6289 transfer of a wireless telephone number in accordance with Section 78B-7-117.

6290 (5) Following the cohabitant abuse protective order hearing, the court shall:

6291 (a) as soon as possible, deliver the order to the county sheriff for service of process;

6292 (b) make reasonable efforts to ensure that the cohabitant abuse protective order is  
6293 understood by the petitioner, and the respondent, if present;

6294 (c) transmit electronically, by the end of the next business day after the order is issued,  
6295 a copy of the cohabitant abuse protective order to the local law enforcement agency or agencies  
6296 designated by the petitioner;

6297 (d) transmit a copy of the order to the statewide domestic violence network described  
6298 in Section 78B-7-113; and

6299 (e) if the individual is a respondent or defendant subject to a court order that meets the  
6300 qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours, excluding  
6301 Saturdays, Sundays, and legal holidays, a record of the order to the Bureau of Criminal  
6302 Identification that includes:

6303 (i) an agency record identifier;

6304 (ii) the individual's name, sex, race, and date of birth;

6305 (iii) the issue date, conditions, and expiration date for the protective order; and

6306 (iv) if available, the individual's social security number, government issued driver  
6307 license or identification number, alien registration number, government passport number, state  
6308 identification number, or FBI number.

6309 (6) Each protective order shall include two separate portions, one for provisions, the  
6310 violation of which are criminal offenses, and one for provisions, the violation of which are civil  
6311 offenses, as follows:

6312 (a) criminal offenses are those under Subsections (2)(a) through (g), and under  
6313 Subsection (3)(a) as it refers to Subsections (2)(a) through (g); and

6314 (b) civil offenses are those under Subsections (2)(h) through (l), Subsection (3)(a) as it  
6315 refers to Subsections (2)(h) through (l), and Subsection (3)(b).

6316 (7) Child support and spouse support orders issued as part of a protective order are  
6317 subject to mandatory income withholding under [~~Title 62A, Chapter 11, Part 4, Income~~  
6318 ~~Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non~~

6319 ~~IV-D Cases]~~ Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B,  
6320 Chapter 9, Part 4, Income Withholding in Non IV-D Cases, except when the protective order is  
6321 issued ex parte.

6322 (8) (a) The county sheriff that receives the order from the court, under Subsection (5),  
6323 shall provide expedited service for protective orders issued in accordance with this part, and  
6324 shall transmit verification of service of process, when the order has been served, to the  
6325 statewide domestic violence network described in Section 78B-7-113.

6326 (b) This section does not prohibit any law enforcement agency from providing service  
6327 of process if that law enforcement agency:

6328 (i) has contact with the respondent and service by that law enforcement agency is  
6329 possible; or

6330 (ii) determines that under the circumstances, providing service of process on the  
6331 respondent is in the best interests of the petitioner.

6332 (9) (a) When an order is served on a respondent in a jail or other holding facility, the  
6333 law enforcement agency managing the facility shall make a reasonable effort to provide notice  
6334 to the petitioner at the time the respondent is released from incarceration.

6335 (b) Notification of the petitioner shall consist of a good faith reasonable effort to  
6336 provide notification, including mailing a copy of the notification to the last-known address of  
6337 the victim.

6338 (10) A court may modify or vacate a protective order or any provisions in the  
6339 protective order after notice and hearing, except that the criminal provisions of a cohabitant  
6340 abuse protective order may not be vacated within two years of issuance unless the petitioner:

6341 (a) is personally served with notice of the hearing, as provided in the Utah Rules of  
6342 Civil Procedure, and the petitioner personally appears, in person or through court video  
6343 conferencing, before the court and gives specific consent to the vacation of the criminal  
6344 provisions of the cohabitant abuse protective order; or

6345 (b) submits a verified affidavit, stating agreement to the vacation of the criminal  
6346 provisions of the cohabitant abuse protective order.

6347 (11) A protective order may be modified without a showing of substantial and material  
6348 change in circumstances.

6349 (12) A civil provision of a protective order described in Subsection (6) may be

6350 dismissed or modified at any time in a divorce, parentage, custody, or guardianship proceeding  
6351 that is pending between the parties to the protective order action if:

6352 (a) the parties stipulate in writing or on the record to dismiss or modify a civil  
6353 provision of the protective order; or

6354 (b) the court in the divorce, parentage, custody, or guardianship proceeding finds good  
6355 cause to dismiss or modify the civil provision.

6356 Section 104. Section **78B-8-401** is amended to read:

6357 **78B-8-401. Definitions.**

6358 As used in this part:

6359 (1) "Blood or contaminated body fluids" includes blood, saliva, amniotic fluid,  
6360 pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and  
6361 vaginal secretions, and any body fluid visibly contaminated with blood.

6362 (2) "COVID-19" means the same as that term is defined in Section [78B-4-517](#).

6363 (3) "Disease" means Human Immunodeficiency Virus infection, acute or chronic  
6364 Hepatitis B infection, Hepatitis C infection, COVID-19 or another infectious disease that may  
6365 cause Severe Acute Respiratory Syndrome, and any other infectious disease specifically  
6366 designated by the Labor Commission, in consultation with the Department of ~~Health~~ Health  
6367 and Human Services, for the purposes of this part.

6368 (4) "Emergency services provider" means:

6369 (a) an individual licensed under Section ~~[26-8a-302]~~ [26B-4-116](#), a peace officer, local  
6370 fire department personnel, or personnel employed by the Department of Corrections or by a  
6371 county jail, who provide prehospital emergency care for an emergency services provider either  
6372 as an employee or as a volunteer; or

6373 (b) an individual who provides for the care, control, support, or transport of a prisoner.

6374 (5) "First aid volunteer" means a person who provides voluntary emergency assistance  
6375 or first aid medical care to an injured person prior to the arrival of an emergency medical  
6376 services provider or peace officer.

6377 (6) "Health care provider" means the same as that term is defined in Section  
6378 [78B-3-403](#).

6379 (7) "Medical testing procedure" means a nasopharyngeal swab, a nasal swab, a  
6380 capillary blood sample, a saliva test, or a blood draw.

- 6381 (8) "Peace officer" means the same as that term is defined in Section 53-1-102.
- 6382 (9) "Prisoner" means the same as that term is defined in Section 76-5-101.
- 6383 (10) "Significant exposure" and "significantly exposed" mean:
- 6384 (a) exposure of the body of one individual to the blood or body fluids of another
- 6385 individual by:
- 6386 (i) percutaneous injury, including a needle stick, cut with a sharp object or instrument,
- 6387 or a wound resulting from a human bite, scratch, or similar force; or
- 6388 (ii) contact with an open wound, mucous membrane, or nonintact skin because of a cut,
- 6389 abrasion, dermatitis, or other damage;
- 6390 (b) exposure of the body of one individual to the body fluids, including airborne
- 6391 droplets, of another individual if:
- 6392 (i) the other individual displays symptoms known to be associated with COVID-19 or
- 6393 another infectious disease that may cause Severe Acute Respiratory Syndrome; or
- 6394 (ii) other evidence exists that would lead a reasonable person to believe that the other
- 6395 individual may be infected with COVID-19 or another infectious disease that may cause Severe
- 6396 Acute Respiratory Syndrome; or
- 6397 (c) exposure that occurs by any other method of transmission defined by the Labor
- 6398 Commission, in consultation with the Department of ~~[Health]~~ Health and Human Services, as a
- 6399 significant exposure.
- 6400 Section 105. Section **78B-8-402** is amended to read:
- 6401 **78B-8-402. Petition -- Disease testing -- Notice -- Payment for testing.**
- 6402 (1) An emergency services provider or first aid volunteer who is significantly exposed
- 6403 during the course of performing the emergency services provider's duties or during the course
- 6404 of performing emergency assistance or first aid, or a health care provider acting in the course
- 6405 and scope of the health care provider's duties as a health care provider may:
- 6406 (a) request that the person to whom the emergency services provider, first aid
- 6407 volunteer, or health care provider was significantly exposed voluntarily submit to testing; or
- 6408 (b) petition the district court or a magistrate for an order requiring that the person to
- 6409 whom the emergency services provider, first aid volunteer, or health care provider was
- 6410 significantly exposed submit to testing to determine the presence of a disease and that the
- 6411 results of that test be disclosed to the petitioner by the Department of ~~[Health]~~ Health and

6412 Human Services.

6413 (2) (a) A law enforcement agency may submit on behalf of the petitioner by electronic  
6414 or other means an ex parte request for a warrant ordering a medical testing procedure of the  
6415 respondent.

6416 (b) The court or magistrate shall issue a warrant ordering the respondent to submit to a  
6417 medical testing procedure within two hours, and that reasonable force may be used, if  
6418 necessary, if the court or magistrate finds that:

6419 (i) the petitioner was significantly exposed during the course of performing the  
6420 petitioner's duties as an emergency services provider, first aid volunteer, or health care  
6421 provider;

6422 (ii) the respondent refused to give consent to the medical testing procedure or is unable  
6423 to give consent;

6424 (iii) there may not be an opportunity to obtain a sample at a later date; and

6425 (iv) a delay in administering available FDA-approved post-exposure treatment or  
6426 prophylaxis could result in a lack of effectiveness of the treatment or prophylaxis.

6427 (c) (i) If the petitioner requests that the court order the respondent to submit to a blood  
6428 draw, the petitioner shall request a person authorized under Section [41-6a-523](#) to perform the  
6429 blood draw.

6430 (ii) If the petitioner requests that the court order the respondent to submit to a medical  
6431 testing procedure, other than a blood draw, the petitioner shall request that a qualified medical  
6432 professional, including a physician, a physician's assistant, a registered nurse, a licensed  
6433 practical nurse, or a paramedic, perform the medical testing procedure.

6434 (d) (i) A sample drawn in accordance with a warrant following an ex parte request shall  
6435 be sent to the Department of [~~Health~~] Health and Human Services for testing.

6436 (ii) If the Department of [~~Health~~] Health and Human Services is unable to perform a  
6437 medical testing procedure ordered by the court under this section, a qualified medical  
6438 laboratory may perform the medical testing procedure if:

6439 (A) the Department of [~~Health~~] Health and Human Services requests that the medical  
6440 laboratory perform the medical testing procedure; and

6441 (B) the result of the medical testing procedure is provided to the Department of  
6442 [~~Health~~] Health and Human Services.



6443 (3) If a petitioner does not seek or obtain a warrant pursuant to Subsection (2), the  
6444 petitioner may file a petition with the district court seeking an order to submit to testing and to  
6445 disclose the results in accordance with this section.

6446 (4) (a) The petition described in Subsection (3) shall be accompanied by an affidavit in  
6447 which the petitioner certifies that the petitioner has been significantly exposed to the individual  
6448 who is the subject of the petition and describes that exposure.

6449 (b) The petitioner shall submit to testing to determine the presence of a disease, when  
6450 the petition is filed or within three days after the petition is filed.

6451 (5) The petitioner shall cause the petition required under this section to be served on  
6452 the person who the petitioner is requesting to be tested in a manner that will best preserve the  
6453 confidentiality of that person.

6454 (6) (a) The court shall set a time for a hearing on the matter within 10 days after the  
6455 petition is filed and shall give the petitioner and the individual who is the subject of the petition  
6456 notice of the hearing at least 72 hours prior to the hearing.

6457 (b) The individual who is the subject of the petition shall also be notified that the  
6458 individual may have an attorney present at the hearing and that the individual's attorney may  
6459 examine and cross-examine witnesses.

6460 (c) The hearing shall be conducted in camera.

6461 (7) The district court may enter an order requiring that an individual submit to testing,  
6462 including a medical testing procedure, for a disease if the court finds probable cause to believe:

6463 (a) the petitioner was significantly exposed; and

6464 (b) the exposure occurred during the course of the emergency services provider's  
6465 duties, the provision of emergency assistance or first aid by a first aid volunteer, or the health  
6466 care provider acting in the course and scope of the provider's duties as a health care provider.

6467 (8) The court may order that the use of reasonable force is permitted to complete an  
6468 ordered test if the individual who is the subject of the petition is a prisoner.

6469 (9) The court may order that additional, follow-up testing be conducted and that the  
6470 individual submit to that testing, as it determines to be necessary and appropriate.

6471 (10) The court is not required to order an individual to submit to a test under this  
6472 section if it finds that there is a substantial reason, relating to the life or health of the  
6473 individual, not to enter the order.

6474 (11) (a) Upon order of the district court that an individual submit to testing for a  
6475 disease, that individual shall report to the designated local health department to provide the  
6476 ordered specimen within five days after the day on which the court issues the order, and  
6477 thereafter as designated by the court, or be held in contempt of court.

6478 (b) The court shall send the order to the Department of [~~Health~~] Health and Human  
6479 Services and to the local health department ordered to conduct or oversee the test.

6480 (c) Notwithstanding the provisions of Section [~~26-6-27~~] 26B-7-217, the Department of  
6481 [~~Health~~] Health and Human Services and a local health department may disclose the test results  
6482 pursuant to a court order as provided in this section.

6483 (d) Under this section, anonymous testing as provided under Section [~~26-6-3.5~~]  
6484 26B-7-203 may not satisfy the requirements of the court order.

6485 (12) The local health department or the Department of [~~Health~~] Health and Human  
6486 Services shall inform the subject of the petition and the petitioner of the results of the test and  
6487 advise both parties that the test results are confidential. That information shall be maintained as  
6488 confidential by all parties to the action.

6489 (13) The court, the court's personnel, the process server, the Department of [~~Health~~]  
6490 Health and Human Services, local health department, and petitioner shall maintain  
6491 confidentiality of the name and any other identifying information regarding the individual  
6492 tested and the results of the test as they relate to that individual, except as specifically  
6493 authorized by this chapter.

6494 (14) (a) Except as provided in Subsection (14)(b), the petitioner shall remit payment  
6495 for each test performed in accordance with this section to the entity that performs the  
6496 procedure.

6497 (b) If the petitioner is an emergency services provider, the agency that employs the  
6498 emergency services provider shall remit payment for each test performed in accordance with  
6499 this section to the entity that performs the procedure.

6500 (15) The entity that obtains a specimen for a test ordered under this section shall cause  
6501 the specimen and the payment for the analysis of the specimen to be delivered to the  
6502 Department of [~~Health~~] Health and Human Services for analysis.

6503 (16) If the individual is incarcerated, the incarcerating authority shall either obtain a  
6504 specimen for a test ordered under this section or shall pay the expenses of having the specimen

6505 obtained by a qualified individual who is not employed by the incarcerating authority.

6506 (17) The ex parte request or petition shall be sealed upon filing and made accessible  
6507 only to the petitioner, the subject of the petition, and their attorneys, upon court order.

6508 Section 106. Section **78B-8-404** is amended to read:

6509 **78B-8-404. Department authority -- Rules.**

6510 The Labor Commission, in consultation with the Department of [~~Health~~] Health and  
6511 Human Services, has authority to establish rules necessary for the purposes of Subsections  
6512 78B-8-401(2) and (8).

6513 Section 107. Section **78B-10-106** is amended to read:

6514 **78B-10-106. Exceptions to privilege.**

6515 (1) There is no privilege under Section 78B-10-104 for a mediation communication  
6516 that is:

6517 (a) in an agreement evidenced by a record signed by all parties to the agreement;

6518 (b) available to the public under Title 63G, Chapter 2, Government Records Access  
6519 and Management Act, or made during a mediation session which is open, or is required by law  
6520 to be open, to the public;

6521 (c) a threat or statement of a plan to inflict bodily injury or commit a crime of violence;

6522 (d) intentionally used to plan a crime, attempt to commit or commit a crime, or to  
6523 conceal an ongoing crime or ongoing criminal activity;

6524 (e) sought or offered to prove or disprove a claim or complaint of professional  
6525 misconduct or malpractice filed against a mediator;

6526 (f) except as otherwise provided in Subsection (3), sought or offered to prove or  
6527 disprove a claim or complaint of professional misconduct or malpractice filed against a  
6528 mediation party, nonparty participant, or representative of a party based on conduct occurring  
6529 during a mediation; or

6530 (g) subject to the reporting requirements in Section [~~62A-3-305~~] 26B-6-205 or  
6531 80-2-602.

6532 (2) There is no privilege under Section 78B-10-104 if a court, administrative agency, or  
6533 arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of  
6534 the evidence has shown that:

6535 (a) the evidence is not otherwise available;

6536 (b) there is a need for the evidence that substantially outweighs the interest in  
6537 protecting confidentiality; and

6538 (c) the mediation communication is sought or offered in:

6539 (i) a court proceeding involving a felony or misdemeanor; or

6540 (ii) except as otherwise provided in Subsection (3), a proceeding to prove a claim to  
6541 rescind or reform or a defense to avoid liability on a contract arising out of the mediation.

6542 (3) A mediator may not be compelled to provide evidence of a mediation  
6543 communication referred to in Subsection (1)(f) or (2)(c)(ii).

6544 (4) If a mediation communication is not privileged under Subsection (1) or (2), only  
6545 the portion of the communication necessary for the application of the exception from  
6546 nondisclosure may be admitted. Admission of evidence under Subsection (1) or (2) does not  
6547 render the evidence, or any other mediation communication, discoverable or admissible for any  
6548 other purpose.

6549 Section 108. Section **78B-12-102** is amended to read:

6550 **78B-12-102. Definitions.**

6551 As used in this chapter:

6552 (1) "Adjusted gross income" means income calculated under Subsection  
6553 [78B-12-204](#)(1).

6554 (2) "Administrative agency" means the Office of Recovery Services or the Department  
6555 of [~~Human Services~~] Health and Human Services.

6556 (3) "Administrative order" means an order that has been issued by the Office of  
6557 Recovery Services, the Department of [~~Human Services~~] Health and Human Services, or an  
6558 administrative agency of another state or other comparable jurisdiction with similar authority to  
6559 that of the office.

6560 (4) "Base child support award" means the award that may be ordered and is calculated  
6561 using the guidelines before additions for medical expenses and work-related child care costs.

6562 (5) "Base combined child support obligation table," "child support table," "base child  
6563 support obligation table," "low income table," or "table" means the appropriate table in Part 3,  
6564 Tables.

6565 (6) "Cash medical support" means an obligation to equally share all reasonable and  
6566 necessary medical and dental expenses of children.

6567 (7) "Child" means:

6568 (a) a son or daughter under the age of 18 years who is not otherwise emancipated,  
6569 self-supporting, married, or a member of the armed forces of the United States;

6570 (b) a son or daughter over the age of 18 years, while enrolled in high school during the  
6571 normal and expected year of graduation and not otherwise emancipated, self-supporting,  
6572 married, or a member of the armed forces of the United States; or

6573 (c) a son or daughter of any age who is incapacitated from earning a living and, if able  
6574 to provide some financial resources to the family, is not able to support self by own means.

6575 (8) "Child support" means a base child support award, or a monthly financial award for  
6576 uninsured medical expenses, ordered by a tribunal for the support of a child, including current  
6577 periodic payments, arrearages that accrue under an order for current periodic payments, and  
6578 sum certain judgments awarded for arrearages, medical expenses, and child care costs.

6579 (9) "Child support order" or "support order" means a judgment, decree, or order of a  
6580 tribunal whether interlocutory or final, whether or not prospectively or retroactively modifiable,  
6581 whether incidental to a proceeding for divorce, judicial or legal separation, separate  
6582 maintenance, paternity, guardianship, civil protection, or otherwise that:

6583 (a) establishes or modifies child support;

6584 (b) reduces child support arrearages to judgment; or

6585 (c) establishes child support or registers a child support order under Chapter 14, Utah  
6586 Uniform Interstate Family Support Act.

6587 (10) "Child support services" or "IV-D child support services" means services provided  
6588 pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651 et seq.

6589 (11) "Court" means the district court or juvenile court.

6590 (12) "Guidelines" means the directions for the calculation and application of child  
6591 support in Part 2, Calculation and Adjustment.

6592 (13) "Health care coverage" means coverage under which medical services are  
6593 provided to a dependent child through:

6594 (a) fee for service;

6595 (b) a health maintenance organization;

6596 (c) a preferred provider organization;

6597 (d) any other type of private health insurance; or

6598 (e) public health care coverage.

6599 (14) (a) "Income" means earnings, compensation, or other payment due to an  
6600 individual, regardless of source, whether denominated as wages, salary, commission, bonus,  
6601 pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and  
6602 incentive pay.

6603 (b) "Income" includes:

6604 (i) all gain derived from capital assets, labor, or both, including profit gained through  
6605 sale or conversion of capital assets;

6606 (ii) interest and dividends;

6607 (iii) periodic payments made under pension or retirement programs or insurance  
6608 policies of any type;

6609 (iv) unemployment compensation benefits;

6610 (v) workers' compensation benefits; and

6611 (vi) disability benefits.

6612 (15) "Joint physical custody" means the child stays with each parent overnight for more  
6613 than 30% of the year, and both parents contribute to the expenses of the child in addition to  
6614 paying child support.

6615 (16) "Medical expenses" means health and dental expenses and related insurance costs.

6616 (17) "Obligee" means an individual, this state, another state, or another comparable  
6617 jurisdiction to whom child support is owed or who is entitled to reimbursement of child  
6618 support or public assistance.

6619 (18) "Obligor" means a person owing a duty of support.

6620 (19) "Office" means the Office of Recovery Services within the Department of [~~Human~~  
6621 ~~Services~~] Health and Human Services.

6622 (20) "Parent" includes a natural parent, or an adoptive parent.

6623 (21) "Pregnancy expenses" means an amount equal to:

6624 (a) the sum of a pregnant mother's:

6625 (i) health insurance premiums while pregnant that are not paid by an employer or  
6626 government program; and

6627 (ii) medical costs related to the pregnancy, incurred after the date of conception and  
6628 before the pregnancy ends; minus

6629 (b) any portion of the amount described in Subsection (21)(a) that a court determines is  
6630 equitable based on the totality of the circumstances, not including any amount paid by the  
6631 mother or father of the child.

6632 (22) "Split custody" means that each parent has physical custody of at least one of the  
6633 children.

6634 (23) "State" includes a state, territory, possession of the United States, the District of  
6635 Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable  
6636 domestic or foreign jurisdiction.

6637 (24) "Temporary" means a period of time that is projected to be less than 12 months in  
6638 duration.

6639 (25) "Third party" means an agency or a person other than the biological or adoptive  
6640 parent or a child who provides care, maintenance, and support to a child.

6641 (26) "Tribunal" means the district court, the Department of [~~Human Services~~] Health  
6642 and Human Services, Office of Recovery Services, or court or administrative agency of a state,  
6643 territory, possession of the United States, the District of Columbia, the Commonwealth of  
6644 Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

6645 (27) "Work-related child care costs" means reasonable child care costs for up to a  
6646 full-time work week or training schedule as necessitated by the employment or training of a  
6647 parent under Section [78B-12-215](#).

6648 (28) "Worksheets" means the forms used to aid in calculating the base child support  
6649 award.

6650 Section 109. Section **78B-12-111** is amended to read:

6651 **78B-12-111. Court order -- Medical expenses of dependent children -- Assigning**  
6652 **responsibility for payment -- Insurance coverage -- Income withholding.**

6653 The court shall include the following in its order:

6654 (1) a provision assigning responsibility for the payment of reasonable and necessary  
6655 medical expenses for the dependent children;

6656 (2) a provision requiring the purchase and maintenance of appropriate insurance for the  
6657 medical expenses of dependent children, if coverage is or becomes available at a reasonable  
6658 cost; and

6659 (3) provisions for income withholding, in accordance with [~~Title 62A, Chapter 11, Part~~

6660 ~~4, Income Withholding in IV-D Cases, and Part 5, Income Withholding in Non IV-D Cases]~~  
6661 Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9,  
6662 Part 4, Income Withholding in Non IV-D Cases.

6663 Section 110. Section **78B-12-112** is amended to read:

6664 **78B-12-112. Payment under child support order -- Judgment.**

6665 (1) All monthly payments of child support shall be due on the 1st day of each month  
6666 pursuant to [~~Title 62A, Chapter 11, Part 3, Child Support Services Act, Part 4, Income~~  
6667 ~~Withholding in IV-D Cases, and Part 5, Income Withholding in Non IV-D Cases]~~ Title 26B,  
6668 Chapter 9, Part 2, Child Support Services, Title 26B, Chapter 9, Part 3, Income Withholding in  
6669 IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases.

6670 (2) For purposes of child support services and income withholding pursuant to [~~Title~~  
6671 ~~62A, Chapter 11, Part 3, Child Support Services Act, and Part 4, Income Withholding in IV-D~~  
6672 ~~Cases]~~ Title 26B, Chapter 9, Part 2, Child Support Services, and Title 26B, Chapter Part 3,  
6673 Income Withholding in IV-D Cases, child support is not considered past due until the 1st day  
6674 of the following month. For purposes other than those specified in Subsection (1) support shall  
6675 be payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the  
6676 order or decree provides for a different time for payment.

6677 (3) Each payment or installment of child or spousal support under any support order, as  
6678 defined by Section **78B-12-102**, is, on and after the date it is due:

6679 (a) a judgment with the same attributes and effect of any judgment of a district court,  
6680 except as provided in Subsection (4);

6681 (b) entitled, as a judgment, to full faith and credit in this and in any other jurisdiction;  
6682 and

6683 (c) not subject to retroactive modification by this or any other jurisdiction, except as  
6684 provided in Subsection (4).

6685 (4) A child or spousal support payment under a support order may be modified with  
6686 respect to any period during which a modification is pending, but only from the date of service  
6687 of the pleading on the obligee, if the obligor is the petitioner, or on the obligor, if the obligee is  
6688 the petitioner. If the tribunal orders that the support should be modified, the effective date of  
6689 the modification shall be the month following service on the parent whose support is affected.  
6690 Once the tribunal determines that a modification is appropriate, the tribunal shall order a



6691 judgment to be entered for any difference in the original order and the modified amount for the  
6692 period from the service of the pleading until the final order of modification is entered.

6693 (5) The judgment provided for in Subsection (3)(a), to be effective and enforceable as a  
6694 lien against the real property interest of any third party relying on the public record, shall be  
6695 docketed in the district court in accordance with Sections [78B-5-202](#) and [~~62A-11-312.5~~]  
6696 [26B-9-214](#).

6697 Section 111. Section **78B-12-113** is amended to read:

6698 **78B-12-113. Enforcement of right of support.**

6699 (1) (a) The obligee may enforce his right of support against the obligor. The office  
6700 may proceed pursuant to this chapter or any other applicable statute on behalf of:

6701 (i) the Department of [~~Human Services~~] Health and Human Services;

6702 (ii) any other department or agency of this state that provides public assistance, as  
6703 defined by Subsection [~~62A-11-303(3)~~] [26B-9-201\(4\)](#), to enforce the right to recover public  
6704 assistance; or

6705 (iii) the obligee, to enforce the obligee's right of support against the obligor.

6706 (b) Whenever any court action is commenced by the office to enforce payment of the  
6707 obligor's support obligation, the attorney general or the county attorney of the county of  
6708 residence of the obligee shall represent the office.

6709 (2) (a) A person may not commence an action, file a pleading, or submit a written  
6710 stipulation to the court, without complying with Subsection (2)(b), if the purpose or effect of  
6711 the action, pleading, or stipulation is to:

6712 (i) establish paternity;

6713 (ii) establish or modify a support obligation;

6714 (iii) change the court-ordered manner of payment of support;

6715 (iv) recover support due or owing; or

6716 (v) appeal issues regarding child support laws.

6717 (b) (i) When taking an action described in Subsection (2)(a), a person must file an  
6718 affidavit with the court at the time the action is commenced, the pleading is filed, or the  
6719 stipulation is submitted stating whether child support services have been or are being provided  
6720 under Part IV of the Social Security Act, 42 U.S.C., Section 601 et seq., on behalf of a child  
6721 who is a subject of the action, pleading, or stipulation.

6722 (ii) If child support services have been or are being provided, under Part IV of the  
6723 Social Security Act, 42 U.S.C., Section 601 et seq., the person shall mail a copy of the affidavit  
6724 and a copy of the pleading or stipulation to the Office of the Attorney General, Child Support  
6725 Division.

6726 (iii) If notice is not given in accordance with this Subsection (2), the office is not  
6727 bound by any decision, judgment, agreement, or compromise rendered in the action. For  
6728 purposes of appeals, service must be made on the Office of the Director for the Office of  
6729 Recovery Services.

6730 (c) If IV-D services have been or are being provided, that person shall join the office as  
6731 a party to the action, or mail or deliver a written request to the Office of the Attorney General,  
6732 Child Support Division asking the office to join as a party to the action. A copy of that request,  
6733 along with proof of service, shall be filed with the court. The office shall be represented as  
6734 provided in Subsection (1)(b).

6735 (3) Neither the attorney general nor the county attorney represents or has an  
6736 attorney-client relationship with the obligee or the obligor in carrying out the duties under this  
6737 chapter.

6738 Section 112. Section **78B-12-216** is amended to read:

6739 **78B-12-216. Reduction for extended parent-time.**

6740 (1) The base child support award shall be:

6741 (a) reduced by 50% for each child for time periods during which the child is with the  
6742 noncustodial parent by order of the court or by written agreement of the parties for at least 25  
6743 of any 30 consecutive days of extended parent-time; or

6744 (b) 25% for each child for time periods during which the child is with the noncustodial  
6745 parent by order of the court, or by written agreement of the parties for at least 12 of any 30  
6746 consecutive days of extended parent-time.

6747 (2) If the dependent child is a client of cash assistance provided under Title 35A,  
6748 Chapter 3, Part 3, Family Employment Program, any agreement by the parties for reduction of  
6749 child support during extended parent-time shall be approved by the administrative agency.

6750 (3) Normal parent-time and holiday visits to the custodial parent shall not be  
6751 considered extended parent-time.

6752 (4) For cases receiving IV-D child support services in accordance with [~~Title 62A,~~

6753 ~~Chapter 11, Part 1, Office of Recovery Services, Part 3, Child Support Services Act, and Part 4,~~  
6754 ~~Income Withholding in IV-D Cases]~~ Title 26B, Chapter 9, Part 1, Office of Recovery Services,  
6755 Title 26B, Chapter 9, Part 2, Child Support Services, and Title 26B, Chapter 9, Part 3, Income  
6756 Withholding in IV-D Cases, to receive the adjustment the noncustodial parent shall provide  
6757 written documentation of the extended parent-time schedule, including the beginning and  
6758 ending dates, to the Office of Recovery Services in the form of either a court order or a  
6759 voluntary written agreement between the parties.

6760 (5) If the noncustodial parent complies with Subsection (4), owes no past-due support,  
6761 and pays the full, unadjusted amount of current child support due for the month of scheduled  
6762 extended parent-time and the following month, the Office of Recovery Services shall refund  
6763 the difference from the child support due to the custodial parent or the state, between the full  
6764 amount of current child support received during the month of extended parent-time and the  
6765 adjusted amount of current child support due:

6766 (a) from current support received in the month following the month of scheduled  
6767 extended parent-time; or

6768 (b) from current support received in the month following the month written  
6769 documentation of the scheduled extended parent-time is provided to the office, whichever  
6770 occurs later.

6771 (6) If the noncustodial parent complies with Subsection (4), owes past-due support, and  
6772 pays the full, unadjusted amount of current child support due for the month of scheduled  
6773 extended parent-time, the Office of Recovery Services shall apply the difference, from the child  
6774 support due to the custodial parent or the state, between the full amount of current child  
6775 support received during the month of extended parent-time and the adjusted amount of current  
6776 child support due, to the past-due support obligation in the case.

6777 (7) For cases not receiving IV-D child support services in accordance with [~~Title 62A,~~  
6778 ~~Chapter 11, Part 1, Office of Recovery Services, Part 3, Child Support Services Act, and Part 4,~~  
6779 ~~Income Withholding in IV-D Cases]~~ Title 26B, Chapter 9, Part 1, Office of Recovery Services,  
6780 Title 26B, Chapter 9, Part 2, Child Support Services, and Title 26B, Chapter Part 3, Income  
6781 Withholding in IV-D Cases, any potential adjustment of the support payment during the month  
6782 of extended visitation or any refund that may be due to the noncustodial parent from the  
6783 custodial parent, shall be resolved between the parents or through the court without

6784 involvement by the Office of Recovery Services.

6785 (8) For purposes of this section the per child amount to which the abatement applies  
6786 shall be calculated by dividing the base child support award by the number of children included  
6787 in the award.

6788 (9) The reduction in this section does not apply to parents with joint physical custody  
6789 obligations calculated in accordance with Section [78B-12-208](#).

6790 Section 113. Section **78B-12-402** is amended to read:

6791 **78B-12-402. Duties -- Report -- Staff.**

6792 (1) The advisory committee shall review the child support guidelines to ensure the  
6793 application of the guidelines results in the determination of appropriate child support award  
6794 amounts.

6795 (2) The advisory committee shall submit, in accordance with Section [68-3-14](#), a written  
6796 report to the legislative Judiciary Interim Committee on or before October 1, 2021, and then on  
6797 or before October 1 of every fourth year subsequently.

6798 (3) The advisory committee's report shall include recommendations of the majority of  
6799 the advisory committee, as well as specific recommendations of individual members of the  
6800 advisory committee.

6801 (4) Staff for the advisory committee shall be provided from the existing budget of the  
6802 Department of [~~Human Services~~] Health and Human Services.

6803 Section 114. Section **78B-14-103** is amended to read:

6804 **78B-14-103. State tribunal and support enforcement agency.**

6805 (1) The district court and the Utah Department of [~~Human Services~~] Health and Human  
6806 Services are the tribunals of this state.

6807 (2) The Utah Department of [~~Human Services~~] Health and Human Services is the state  
6808 support enforcement agency.

6809 Section 115. Section **78B-14-501** is amended to read:

6810 **78B-14-501. Employer's receipt of income-withholding order of another state.**

6811 An income-withholding order issued in another state may be sent by or on behalf of the  
6812 obligee, or by the support-enforcement agency, to the person defined as the obligor's employer  
6813 under [~~Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Part 5, Income~~  
6814 ~~Withholding in Non IV-D Cases~~] Title 26B, Chapter 9, Part 3, Income Withholding in IV-D

6815 Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases, without first  
6816 filing a petition or comparable pleading or registering the order with a tribunal of this state.

6817 Section 116. Section **78B-14-605** is amended to read:

6818 **78B-14-605. Notice of registration of order.**

6819 (1) When a support order or income-withholding order issued in another state, or a  
6820 foreign support order, is registered, the registering tribunal of this state shall notify the  
6821 nonregistering party. The notice shall be accompanied by a copy of the registered order and the  
6822 documents and relevant information accompanying the order.

6823 (2) A notice shall inform the nonregistering party:

6824 (a) that a registered order is enforceable as of the date of registration in the same  
6825 manner as an order issued by a tribunal of this state;

6826 (b) that a hearing to contest the validity or enforcement of the registered order shall be  
6827 requested within 20 days after notice, unless the registered order is under Section **78B-14-707**;

6828 (c) that failure to contest the validity or enforcement of the registered order in a timely  
6829 manner will result in confirmation of the order and enforcement of the order and the alleged  
6830 arrearages; and

6831 (d) of the amount of any alleged arrearages.

6832 (3) If the registering party asserts that two or more orders are in effect, a notice shall  
6833 also:

6834 (a) identify the two or more orders and the order alleged by the registering party to be  
6835 the controlling order and the consolidated arrears, if any;

6836 (b) notify the nonregistering party of the right to a determination of which is the  
6837 controlling order;

6838 (c) state that the procedures provided in Subsection (2) apply to the determination of  
6839 which is the controlling order; and

6840 (d) state that failure to contest the validity or enforcement of the order alleged to be the  
6841 controlling order in a timely manner may result in confirmation that the order is the controlling  
6842 order.

6843 (4) Upon registration of an income-withholding order for enforcement, the support  
6844 enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to  
6845 [~~Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases~~] Title 26B, Chapter 9, Part

6846 3, Income Withholding in IV-D Cases.

6847 Section 117. Section **78B-14-703** is amended to read:

6848 **78B-14-703. Relationship of Department of Health and Human Services to**  
6849 **United States central authority.**

6850 The Utah Department of [~~Human Services~~] Health and Human Services is recognized  
6851 as the agency designated by the United States central authority to perform specific functions  
6852 under the convention.

6853 Section 118. Section **78B-14-704** is amended to read:

6854 **78B-14-704. Initiation by Department of Health and Human Services of support**  
6855 **proceeding under convention.**

6856 (1) In a support proceeding under this part, the Utah Department of [~~Human Services~~]  
6857 Health and Human Services shall:

6858 (a) transmit and receive applications; and

6859 (b) initiate or facilitate the institution of a proceeding regarding an application in a  
6860 tribunal of this state.

6861 (2) The following support proceedings are available to an obligee under the  
6862 convention:

6863 (a) recognition or recognition and enforcement of a foreign support order;

6864 (b) enforcement of a support order issued or recognized in this state;

6865 (c) establishment of a support order if there is no existing order, including, if  
6866 necessary, determination of parentage of a child;

6867 (d) establishment of a support order if recognition of a foreign support order is refused  
6868 under Subsection **78B-14-708(2)(b)**, (d), or (i);

6869 (e) modification of a support order of a tribunal of this state; and

6870 (f) modification of a support order of a tribunal of another state or a foreign country.

6871 (3) The following support proceedings are available under the convention to an obligor  
6872 against which there is an existing support order:

6873 (a) recognition of an order suspending or limiting enforcement of an existing support  
6874 order of a tribunal of this state;

6875 (b) modification of a support order of a tribunal of this state; and

6876 (c) modification of a support order of a tribunal of another state or a foreign country.

6877 (4) A tribunal of this state may not require security, bond, or deposit, however  
6878 described, to guarantee the payment of costs and expenses in proceedings under the  
6879 convention.

6880 Section 119. Section **78B-15-104** is amended to read:

6881 **78B-15-104. Jurisdiction -- Authority of Office of Recovery Services -- Dismissal**  
6882 **of petition.**

6883 (1) (a) Except as provided in Subsection [78A-6-104\(1\)\(a\)\(i\)](#), the district court has  
6884 original jurisdiction over any action brought under this chapter.

6885 (b) If the juvenile court has concurrent jurisdiction under Subsection  
6886 [78A-6-104\(1\)\(a\)\(i\)](#) over a paternity action filed in the district court, the district court may  
6887 transfer jurisdiction over the paternity action to the juvenile court.

6888 (2) The Office of Recovery Services is authorized to establish paternity in accordance  
6889 with this chapter, [~~Title 62A, Chapter 11, Recovery Services~~] Title 26B, Chapter 9, Recovery  
6890 Services and Administration of Child Support, and Title 63G, Chapter 4, Administrative  
6891 Procedures Act.

6892 (3) A court shall, without adjudicating paternity, dismiss a petition that is filed under  
6893 this chapter by an unmarried biological father if he is not entitled to consent to the adoption of  
6894 the child under Sections [78B-6-121](#) and [78B-6-122](#).

6895 Section 120. Section **78B-15-107** is amended to read:

6896 **78B-15-107. Effect.**

6897 An adjudication or declaration of paternity shall be filed with the state registrar in  
6898 accordance with Section [~~26-2-5~~] [26B-8-104](#).

6899 Section 121. Section **78B-24-203** is amended to read:

6900 **78B-24-203. Prohibited custody transfer.**

6901 (1) Except as provided in Subsection (2), a parent or guardian of a child, or an  
6902 individual with whom a child has been placed for adoption, may not transfer custody of the  
6903 child to another person with the intent, at the time of the transfer, to abandon the rights and  
6904 responsibilities concerning the child.

6905 (2) A parent or guardian of a child or an individual with whom a child has been placed  
6906 for adoption may transfer custody of the child to another person with the intent, at the time of  
6907 the transfer, to abandon the rights and responsibilities concerning the child only through:

- 6908 (a) adoption or guardianship;
- 6909 (b) judicial award of custody;
- 6910 (c) placement by or through a child-placing agency;
- 6911 (d) other judicial or tribal action; or
- 6912 (e) safe relinquishment under [~~Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a~~  
6913 ~~Newborn Child~~] Title 80, Chapter 4, Part 5, Safe Relinquishment of a Newborn Child.

6914 (3) (a) A person may not receive custody of a child, or act as an intermediary in a  
6915 transfer of custody of a child, if the person knows or reasonably should know the transfer  
6916 violates Subsection (1).

6917 (b) This subsection does not apply if the person as soon as practicable after the transfer,  
6918 notifies the Division of Child and Family Services of the transfer or takes appropriate action to  
6919 establish custody under Subsection (2).

6920 (4) A violation of this section is a class B misdemeanor.

6921 (5) A violation of Subsection (1) is not established solely because a parent or guardian  
6922 that transfers custody of a child does not regain custody.

6923 Section 122. Section **78B-24-307** is amended to read:

6924 **78B-24-307. Child-placing agency compliance.**

6925 (1) The Office of Licensing, created in Section [~~62A-2-103~~] 26B-2-103, may  
6926 investigate an allegation that a child-placing agency has failed to comply with this part and  
6927 commence an action for injunctive or other relief or initiate administrative proceedings against  
6928 the child-placing agency to enforce this part.

6929 (2) (a) The Office of Licensing may initiate a proceeding to determine whether a  
6930 child-placing agency has failed to comply with this part.

6931 (b) If the Office of Licensing finds that the child-placing agency has failed to comply,  
6932 the Office of Licensing may suspend or revoke the child-placing agency's license or take other  
6933 action permitted by law of the state.

6934 Section 123. Section **78B-24-308** is amended to read:

6935 **78B-24-308. Rulemaking authority.**

6936 The Office of Licensing, created in Section [~~62A-2-103~~] 26B-2-103, may adopt rules  
6937 under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement Sections  
6938 78B-24-303, 78B-24-304, 78B-24-305, and 78B-24-306.



6939 Section 124. Section **79-2-404** is amended to read:

6940 **79-2-404. Contracting powers of department -- Health insurance coverage.**

6941 (1) As used in this section:

6942 (a) "Aggregate" means the sum of all contracts, change orders, and modifications  
6943 related to a single project.

6944 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

6945 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or  
6946 "operative" who:

6947 (i) works at least 30 hours per calendar week; and

6948 (ii) meets employer eligibility waiting requirements for health care insurance, which  
6949 may not exceed the first day of the calendar month following 60 days after the day on which  
6950 the individual is hired.

6951 (d) "Health benefit plan" means:

6952 (i) the same as that term is defined in Section [31A-1-301](#); or

6953 (ii) an employee welfare benefit plan:

6954 (A) established under the Employee Retirement Income Security Act of 1974, 29  
6955 U.S.C. Sec. 1001 et seq.;

6956 (B) for an employer with 100 or more employees; and

6957 (C) in which the employer establishes a self-funded or partially self-funded group  
6958 health plan to provide medical care for the employer's employees and dependents of the  
6959 employees.

6960 (e) "Qualified health coverage" means the same as that term is defined in Section  
6961 ~~[26-40-115]~~ [26B-3-909](#).

6962 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).

6963 (g) "Third party administrator" or "administrator" means the same as that term is  
6964 defined in Section [31A-1-301](#).

6965 (2) Except as provided in Subsection (3), the requirements of this section apply to:

6966 (a) a contractor of a design or construction contract entered into by, or delegated to, the  
6967 department or a division, board, or council of the department on or after July 1, 2009, if the  
6968 prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

6969 (b) a subcontractor of a contractor of a design or construction contract entered into by,

6970 or delegated to, the department or a division, board, or council of the department on or after  
6971 July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

6972 (3) This section does not apply to contracts entered into by the department or a  
6973 division, board, or council of the department if:

6974 (a) the application of this section jeopardizes the receipt of federal funds;

6975 (b) the contract or agreement is between:

6976 (i) the department or a division, board, or council of the department; and

6977 (ii) (A) another agency of the state;

6978 (B) the federal government;

6979 (C) another state;

6980 (D) an interstate agency;

6981 (E) a political subdivision of this state; or

6982 (F) a political subdivision of another state; or

6983 (c) the contract or agreement is:

6984 (i) for the purpose of disbursing grants or loans authorized by statute;

6985 (ii) a sole source contract; or

6986 (iii) an emergency procurement.

6987 (4) A person that intentionally uses change orders, contract modifications, or multiple  
6988 contracts to circumvent the requirements of this section is guilty of an infraction.

6989 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the  
6990 department that the contractor has and will maintain an offer of qualified health coverage for  
6991 the contractor's employees and the employees' dependents during the duration of the contract  
6992 by submitting to the department a written statement that:

6993 (i) the contractor offers qualified health coverage that complies with Section

6994 ~~[26-40-115]~~ [26B-3-909](#);

6995 (ii) is from:

6996 (A) an actuary selected by the contractor or the contractor's insurer;

6997 (B) an underwriter who is responsible for developing the employer group's premium  
6998 rates; or

6999 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),  
7000 an actuary or underwriter selected by a third party administrator; and

7001 (iii) was created within one year before the day on which the statement is submitted.

7002 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)

7003 shall provide the actuary or underwriter selected by an administrator, as described in

7004 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's

7005 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the

7006 requirements of qualified health coverage.

7007 (ii) A contractor may not make a change to the contractor's contribution to the health

7008 benefit plan, unless the contractor provides notice to:

7009 (A) the actuary or underwriter selected by an administrator, as described in Subsection

7010 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in

7011 Subsection (5)(a) in compliance with this section; and

7012 (B) the department.

7013 (c) A contractor that is subject to the requirements of this section shall:

7014 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that

7015 is subject to the requirements of this section shall obtain and maintain an offer of qualified

7016 health coverage for the subcontractor's employees and the employees' dependents during the

7017 duration of the subcontract; and

7018 (ii) obtain from a subcontractor that is subject to the requirements of this section a

7019 written statement that:

7020 (A) the subcontractor offers qualified health coverage that complies with Section

7021 ~~[26-40-115]~~ [26B-3-909](#);

7022 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an

7023 underwriter who is responsible for developing the employer group's premium rates, or if the

7024 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or

7025 underwriter selected by an administrator; and

7026 (C) was created within one year before the day on which the contractor obtains the

7027 statement.

7028 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage

7029 described in Subsection (5)(a) during the duration of the contract is subject to penalties in

7030 accordance with administrative rules adopted by the department under Subsection (6).

7031 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain

7032 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

7033 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health  
7034 coverage described in Subsection (5)(c) during the duration of the subcontract is subject to  
7035 penalties in accordance with administrative rules adopted by the department under Subsection  
7036 (6).

7037 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain  
7038 an offer of qualified health coverage described in Subsection (5)(a).

7039 (6) The department shall adopt administrative rules:

7040 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

7041 (b) in coordination with:

7042 (i) the Department of Environmental Quality in accordance with Section 19-1-206;

7043 (ii) a public transit district in accordance with Section 17B-2a-818.5;

7044 (iii) the Division of Facilities Construction and Management in accordance with  
7045 Section 63A-5b-607;

7046 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

7047 (v) the Department of Transportation in accordance with Section 72-6-107.5; and

7048 (vi) the Legislature's Administrative Rules Review and General Oversight Committee;

7049 and

7050 (c) that establish:

7051 (i) the requirements and procedures a contractor and a subcontractor shall follow to  
7052 demonstrate compliance with this section, including:

7053 (A) that a contractor or subcontractor's compliance with this section is subject to an  
7054 audit by the department or the Office of the Legislative Auditor General;

7055 (B) that a contractor that is subject to the requirements of this section shall obtain a  
7056 written statement described in Subsection (5)(a); and

7057 (C) that a subcontractor that is subject to the requirements of this section shall obtain a  
7058 written statement described in Subsection (5)(c)(ii);

7059 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally  
7060 violates the provisions of this section, which may include:

7061 (A) a three-month suspension of the contractor or subcontractor from entering into  
7062 future contracts with the state upon the first violation;

7063 (B) a six-month suspension of the contractor or subcontractor from entering into future  
7064 contracts with the state upon the second violation;

7065 (C) an action for debarment of the contractor or subcontractor in accordance with  
7066 Section [63G-6a-904](#) upon the third or subsequent violation; and

7067 (D) monetary penalties which may not exceed 50% of the amount necessary to  
7068 purchase qualified health coverage for an employee and a dependent of an employee of the  
7069 contractor or subcontractor who was not offered qualified health coverage during the duration  
7070 of the contract; and

7071 (iii) a website on which the department shall post the commercially equivalent  
7072 benchmark, for the qualified health coverage identified in Subsection (1)(e), provided by the  
7073 Department of ~~[Health]~~ Health and Human Services, in accordance with Subsection  
7074 ~~[26-40-115(2)]~~ [26B-3-909\(2\)](#).

7075 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor  
7076 or subcontractor who intentionally violates the provisions of this section is liable to the  
7077 employee for health care costs that would have been covered by qualified health coverage.

7078 (ii) An employer has an affirmative defense to a cause of action under Subsection  
7079 (7)(a)(i) if:

7080 (A) the employer relied in good faith on a written statement described in Subsection  
7081 (5)(a) or (5)(c)(ii); or

7082 (B) the department determines that compliance with this section is not required under  
7083 the provisions of Subsection (3).

7084 (b) An employee has a private right of action only against the employee's employer to  
7085 enforce the provisions of this Subsection (7).

7086 (8) Any penalties imposed and collected under this section shall be deposited into the  
7087 Medicaid Restricted Account created in Section ~~[26-18-402]~~ [26B-1-309](#).

7088 (9) The failure of a contractor or subcontractor to provide qualified health coverage as  
7089 required by this section:

7090 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,  
7091 or contractor under:

7092 (i) Section [63G-6a-1602](#); or

7093 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

7094 (b) may not be used by the procurement entity or a prospective bidder, offeror, or  
7095 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design  
7096 or construction.

7097 (10) An administrator, including an administrator's actuary or underwriter, who  
7098 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health  
7099 coverage of a contractor or subcontractor who provides a health benefit plan described in  
7100 Subsection (1)(d)(ii):

7101 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,  
7102 unless the administrator commits gross negligence in preparing the written statement;

7103 (b) is not liable for any error in the written statement if the administrator relied in good  
7104 faith on information from the contractor or subcontractor; and

7105 (c) may require as a condition of providing the written statement that a contractor or  
7106 subcontractor hold the administrator harmless for an action arising under this section.

7107 Section 125. Section **80-1-102** is amended to read:

7108 **80-1-102. Juvenile Code definitions.**

7109 Except as provided in Section [80-6-1103](#), as used in this title:

7110 (1) (a) "Abuse" means:

7111 (i) (A) nonaccidental harm of a child;

7112 (B) threatened harm of a child;

7113 (C) sexual exploitation;

7114 (D) sexual abuse; or

7115 (E) human trafficking of a child in violation of Section [76-5-308.5](#); or

7116 (ii) that a child's natural parent:

7117 (A) intentionally, knowingly, or recklessly causes the death of another parent of the  
7118 child;

7119 (B) is identified by a law enforcement agency as the primary suspect in an investigation  
7120 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

7121 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or  
7122 recklessly causing the death of another parent of the child.

7123 (b) "Abuse" does not include:

7124 (i) reasonable discipline or management of a child, including withholding privileges;

- 7125 (ii) conduct described in Section [76-2-401](#); or
- 7126 (iii) the use of reasonable and necessary physical restraint or force on a child:
- 7127 (A) in self-defense;
- 7128 (B) in defense of others;
- 7129 (C) to protect the child; or
- 7130 (D) to remove a weapon in the possession of a child for any of the reasons described in
- 7131 Subsections (1)(b)(iii)(A) through (C).
- 7132 (2) "Abused child" means a child who has been subjected to abuse.
- 7133 (3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the
- 7134 facts alleged in the petition have been proved.
- 7135 (b) "Adjudication" does not mean a finding of not competent to proceed in accordance
- 7136 with Section [80-6-402](#).
- 7137 (4) (a) "Adult" means an individual who is 18 years old or older.
- 7138 (b) "Adult" does not include an individual:
- 7139 (i) who is 18 years old or older; and
- 7140 (ii) who is a minor.
- 7141 (5) "Attorney guardian ad litem" means the same as that term is defined in Section
- 7142 [78A-2-801](#).
- 7143 (6) "Board" means the Board of Juvenile Court Judges.
- 7144 (7) "Child" means, except as provided in Section [80-2-905](#), an individual who is under
- 7145 18 years old.
- 7146 (8) "Child and family plan" means a written agreement between a child's parents or
- 7147 guardian and the Division of Child and Family Services as described in Section [80-3-307](#).
- 7148 (9) "Child placing" means the same as that term is defined in Section [~~62A-2-101~~]
- 7149 [26B-2-101](#).
- 7150 (10) "Child-placing agency" means the same as that term is defined in Section
- 7151 [~~62A-2-101~~] [26B-2-101](#).
- 7152 (11) "Child protection team" means a team consisting of:
- 7153 (a) the child welfare caseworker assigned to the case;
- 7154 (b) if applicable, the child welfare caseworker who made the decision to remove the
- 7155 child;

- 7156 (c) a representative of the school or school district where the child attends school;
- 7157 (d) if applicable, the law enforcement officer who removed the child from the home;
- 7158 (e) a representative of the appropriate Children's Justice Center, if one is established
- 7159 within the county where the child resides;
- 7160 (f) if appropriate, and known to the division, a therapist or counselor who is familiar
- 7161 with the child's circumstances;
- 7162 (g) if appropriate, a representative of law enforcement selected by the chief of police or
- 7163 sheriff in the city or county where the child resides; and
- 7164 (h) any other individuals determined appropriate and necessary by the team coordinator
- 7165 and chair.
- 7166 (12) (a) "Chronic abuse" means repeated or patterned abuse.
- 7167 (b) "Chronic abuse" does not mean an isolated incident of abuse.
- 7168 (13) (a) "Chronic neglect" means repeated or patterned neglect.
- 7169 (b) "Chronic neglect" does not mean an isolated incident of neglect.
- 7170 (14) "Clandestine laboratory operation" means the same as that term is defined in
- 7171 Section [58-37d-3](#).
- 7172 (15) "Commit" or "committed" means, unless specified otherwise:
- 7173 (a) with respect to a child, to transfer legal custody; and
- 7174 (b) with respect to a minor who is at least 18 years old, to transfer custody.
- 7175 (16) "Community-based program" means a nonsecure residential or nonresidential
- 7176 program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least
- 7177 restrictive setting, consistent with public safety, and operated by or under contract with the
- 7178 Division of Juvenile Justice and Youth Services.
- 7179 (17) "Community placement" means placement of a minor in a community-based
- 7180 program described in Section [80-5-402](#).
- 7181 (18) "Correctional facility" means:
- 7182 (a) a county jail; or
- 7183 (b) a secure correctional facility as defined in Section [64-13-1](#).
- 7184 (19) "Criminogenic risk factors" means evidence-based factors that are associated with
- 7185 a minor's likelihood of reoffending.
- 7186 (20) "Department" means the Department of Health and Human Services created in



7187 Section [26B-1-201](#).

7188 (21) "Dependent child" or "dependency" means a child who is without proper care  
7189 through no fault of the child's parent, guardian, or custodian.

7190 (22) "Deprivation of custody" means transfer of legal custody by the juvenile court  
7191 from a parent or a previous custodian to another person, agency, or institution.

7192 (23) "Detention" means home detention or secure detention.

7193 (24) "Detention facility" means a facility, established by the Division of Juvenile  
7194 Justice and Youth Services in accordance with Section [80-5-501](#), for minors held in detention.

7195 (25) "Detention risk assessment tool" means an evidence-based tool established under  
7196 Section [80-5-203](#) that:

7197 (a) assesses a minor's risk of failing to appear in court or reoffending before  
7198 adjudication; and

7199 (b) is designed to assist in making a determination of whether a minor shall be held in  
7200 detention.

7201 (26) "Developmental immaturity" means incomplete development in one or more  
7202 domains that manifests as a functional limitation in the minor's present ability to:

7203 (a) consult with counsel with a reasonable degree of rational understanding; and

7204 (b) have a rational as well as factual understanding of the proceedings.

7205 (27) "Disposition" means an order by a juvenile court, after the adjudication of a  
7206 minor, under Section [80-3-405](#) or [80-4-305](#) or Chapter 6, Part 7, Adjudication and Disposition.

7207 (28) "Educational neglect" means that, after receiving a notice of compulsory education  
7208 violation under Section [53G-6-202](#), the parent or guardian fails to make a good faith effort to  
7209 ensure that the child receives an appropriate education.

7210 (29) "Educational series" means an evidence-based instructional series:

7211 (a) obtained at a substance abuse program that is approved by the Division of  
7212 Integrated Healthcare in accordance with Section [~~62A-15-105~~] [26B-5-104](#); and

7213 (b) designed to prevent substance use or the onset of a mental health disorder.

7214 (30) "Emancipated" means the same as that term is defined in Section [80-7-102](#).

7215 (31) "Evidence-based" means a program or practice that has had multiple randomized  
7216 control studies or a meta-analysis demonstrating that the program or practice is effective for a  
7217 specific population or has been rated as effective by a standardized program evaluation tool.

7218 (32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

7219 (33) "Formal probation" means a minor is:

7220 (a) supervised in the community by, and reports to, a juvenile probation officer or an  
7221 agency designated by the juvenile court; and

7222 (b) subject to return to the juvenile court in accordance with Section 80-6-607.

7223 (34) "Group rehabilitation therapy" means psychological and social counseling of one  
7224 or more individuals in the group, depending upon the recommendation of the therapist.

7225 (35) "Guardian" means a person appointed by a court to make decisions regarding a  
7226 minor, including the authority to consent to:

7227 (a) marriage;

7228 (b) enlistment in the armed forces;

7229 (c) major medical, surgical, or psychiatric treatment; or

7230 (d) legal custody, if legal custody is not vested in another individual, agency, or  
7231 institution.

7232 (36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

7233 (37) "Harm" means:

7234 (a) physical or developmental injury or damage;

7235 (b) emotional damage that results in a serious impairment in the child's growth,  
7236 development, behavior, or psychological functioning;

7237 (c) sexual abuse; or

7238 (d) sexual exploitation.

7239 (38) "Home detention" means placement of a minor:

7240 (a) if prior to a disposition, in the minor's home, or in a surrogate home with the  
7241 consent of the minor's parent, guardian, or custodian, under terms and conditions established by  
7242 the Division of Juvenile Justice and Youth Services or the juvenile court; or

7243 (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the  
7244 minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or  
7245 custodian, under terms and conditions established by the Division of Juvenile Justice and  
7246 Youth Services or the juvenile court.

7247 (39) (a) "Incest" means engaging in sexual intercourse with an individual whom the  
7248 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,

7249 nephew, niece, or first cousin.

7250 (b) "Incest" includes:

7251 (i) blood relationships of the whole or half blood, regardless of whether the  
7252 relationship is legally recognized;

7253 (ii) relationships of parent and child by adoption; and

7254 (iii) relationships of stepparent and stepchild while the marriage creating the  
7255 relationship of a stepparent and stepchild exists.

7256 (40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

7257 (41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

7258 (42) "Indigent defense service provider" means the same as that term is defined in  
7259 Section [78B-22-102](#).

7260 (43) "Indigent defense services" means the same as that term is defined in Section  
7261 [78B-22-102](#).

7262 (44) "Indigent individual" means the same as that term is defined in Section  
7263 [78B-22-102](#).

7264 (45) (a) "Intake probation" means a minor is:

7265 (i) monitored by a juvenile probation officer; and

7266 (ii) subject to return to the juvenile court in accordance with Section [80-6-607](#).

7267 (b) "Intake probation" does not include formal probation.

7268 (46) "Intellectual disability" means a significant subaverage general intellectual  
7269 functioning existing concurrently with deficits in adaptive behavior that constitutes a  
7270 substantial limitation to the individual's ability to function in society.

7271 (47) "Juvenile offender" means:

7272 (a) a serious youth offender; or

7273 (b) a youth offender.

7274 (48) "Juvenile probation officer" means a probation officer appointed under Section  
7275 [78A-6-205](#).

7276 (49) "Juvenile receiving center" means a nonsecure, nonresidential program established  
7277 by the Division of Juvenile Justice and Youth Services, or under contract with the Division of  
7278 Juvenile Justice and Youth Services, that is responsible for minors taken into temporary  
7279 custody under Section [80-6-201](#).

- 7280 (50) "Legal custody" means a relationship embodying:
- 7281 (a) the right to physical custody of the minor;
- 7282 (b) the right and duty to protect, train, and discipline the minor;
- 7283 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
- 7284 medical care;
- 7285 (d) the right to determine where and with whom the minor shall live; and
- 7286 (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- 7287 (51) "Licensing Information System" means the Licensing Information System
- 7288 maintained by the Division of Child and Family Services under Section [80-2-1002](#).
- 7289 (52) "Management Information System" means the Management Information System
- 7290 developed by the Division of Child and Family Services under Section [80-2-1001](#).
- 7291 (53) "Mental illness" means:
- 7292 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
- 7293 behavioral, or related functioning; or
- 7294 (b) the same as that term is defined in:
- 7295 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
- 7296 published by the American Psychiatric Association; or
- 7297 (ii) the current edition of the International Statistical Classification of Diseases and
- 7298 Related Health Problems.
- 7299 (54) "Minor" means, except as provided in Sections [80-6-501](#), [80-6-901](#), and [80-7-102](#):
- 7300 (a) a child; or
- 7301 (b) an individual:
- 7302 (i) (A) who is at least 18 years old and younger than 21 years old; and
- 7303 (B) for whom the Division of Child and Family Services has been specifically ordered
- 7304 by the juvenile court to provide services because the individual was an abused, neglected, or
- 7305 dependent child or because the individual was adjudicated for an offense;
- 7306 (ii) (A) who is at least 18 years old and younger than 25 years old; and
- 7307 (B) whose case is under the jurisdiction of the juvenile court in accordance with
- 7308 Subsection [78A-6-103\(1\)\(b\)](#); or
- 7309 (iii) (A) who is at least 18 years old and younger than 21 years old; and
- 7310 (B) whose case is under the jurisdiction of the juvenile court in accordance with

7311 Subsection [78A-6-103\(1\)\(c\)](#).

7312 (55) "Mobile crisis outreach team" means the same as that term is defined in Section  
7313 ~~[62A-15-102]~~ [26B-5-101](#).

7314 (56) "Molestation" means that an individual, with the intent to arouse or gratify the  
7315 sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,  
7316 or the breast of a female child, or takes indecent liberties with a child as defined in Section  
7317 [76-5-401.1](#).

7318 (57) (a) "Natural parent" means, except as provided in Section [80-3-302](#), a minor's  
7319 biological or adoptive parent.

7320 (b) "Natural parent" includes the minor's noncustodial parent.

7321 (58) (a) "Neglect" means action or inaction causing:

7322 (i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe  
7323 Relinquishment of a Newborn Child;

7324 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,  
7325 guardian, or custodian;

7326 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary  
7327 subsistence or medical care, or any other care necessary for the child's health, safety, morals, or  
7328 well-being;

7329 (iv) a child to be at risk of being neglected or abused because another child in the same  
7330 home is neglected or abused;

7331 (v) abandonment of a child through an unregulated child custody transfer under Section  
7332 [78B-24-203](#); or

7333 (vi) educational neglect.

7334 (b) "Neglect" does not include:

7335 (i) a parent or guardian legitimately practicing religious beliefs and who, for that  
7336 reason, does not provide specified medical treatment for a child;

7337 (ii) a health care decision made for a child by the child's parent or guardian, unless the  
7338 state or other party to a proceeding shows, by clear and convincing evidence, that the health  
7339 care decision is not reasonable and informed;

7340 (iii) a parent or guardian exercising the right described in Section [80-3-304](#); or

7341 (iv) permitting a child, whose basic needs are met and who is of sufficient age and

7342 maturity to avoid harm or unreasonable risk of harm, to engage in independent activities,  
7343 including:

- 7344 (A) traveling to and from school, including by walking, running, or bicycling;
- 7345 (B) traveling to and from nearby commercial or recreational facilities;
- 7346 (C) engaging in outdoor play;
- 7347 (D) remaining in a vehicle unattended, except under the conditions described in

7348 Subsection [76-10-2202\(2\)](#);

- 7349 (E) remaining at home unattended; or
- 7350 (F) engaging in a similar independent activity.

7351 (59) "Neglected child" means a child who has been subjected to neglect.

7352 (60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile  
7353 probation officer, without an adjudication of the minor's case under Section [80-6-701](#), upon the  
7354 consent in writing of:

- 7355 (a) the assigned juvenile probation officer; and
- 7356 (b) (i) the minor; or
- 7357 (ii) the minor and the minor's parent, guardian, or custodian.

7358 (61) "Not competent to proceed" means that a minor, due to a mental illness,  
7359 intellectual disability or related condition, or developmental immaturity, lacks the ability to:

- 7360 (a) understand the nature of the proceedings against the minor or of the potential  
7361 disposition for the offense charged; or
- 7362 (b) consult with counsel and participate in the proceedings against the minor with a  
7363 reasonable degree of rational understanding.

7364 (62) "Parole" means a conditional release of a juvenile offender from residency in  
7365 secure care to live outside of secure care under the supervision of the Division of Juvenile  
7366 Justice and Youth Services, or another person designated by the Division of Juvenile Justice  
7367 and Youth Services.

7368 (63) "Physical abuse" means abuse that results in physical injury or damage to a child.

7369 (64) (a) "Probation" means a legal status created by court order, following an  
7370 adjudication under Section [80-6-701](#), whereby the minor is permitted to remain in the minor's  
7371 home under prescribed conditions.

7372 (b) "Probation" includes intake probation or formal probation.

- 7373 (65) "Prosecuting attorney" means:
- 7374 (a) the attorney general and any assistant attorney general;
- 7375 (b) any district attorney or deputy district attorney;
- 7376 (c) any county attorney or assistant county attorney; and
- 7377 (d) any other attorney authorized to commence an action on behalf of the state.
- 7378 (66) "Protective custody" means the shelter of a child by the Division of Child and
- 7379 Family Services from the time the child is removed from the home until the earlier of:
- 7380 (a) the day on which the shelter hearing is held under Section 80-3-301; or
- 7381 (b) the day on which the child is returned home.
- 7382 (67) "Protective services" means expedited services that are provided:
- 7383 (a) in response to evidence of neglect, abuse, or dependency of a child;
- 7384 (b) to a cohabitant who is neglecting or abusing a child, in order to:
- 7385 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
- 7386 causes of neglect or abuse; and
- 7387 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
- 7388 (c) in cases where the child's welfare is endangered:
- 7389 (i) to bring the situation to the attention of the appropriate juvenile court and law
- 7390 enforcement agency;
- 7391 (ii) to cause a protective order to be issued for the protection of the child, when
- 7392 appropriate; and
- 7393 (iii) to protect the child from the circumstances that endanger the child's welfare
- 7394 including, when appropriate:
- 7395 (A) removal from the child's home;
- 7396 (B) placement in substitute care; and
- 7397 (C) petitioning the court for termination of parental rights.
- 7398 (68) "Protective supervision" means a legal status created by court order, following an
- 7399 adjudication on the ground of abuse, neglect, or dependency, whereby:
- 7400 (a) the minor is permitted to remain in the minor's home; and
- 7401 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided
- 7402 by an agency designated by the juvenile court.
- 7403 (69) (a) "Related condition" means a condition that:

7404 (i) is found to be closely related to intellectual disability;  
7405 (ii) results in impairment of general intellectual functioning or adaptive behavior  
7406 similar to that of an intellectually disabled individual;  
7407 (iii) is likely to continue indefinitely; and  
7408 (iv) constitutes a substantial limitation to the individual's ability to function in society.

7409 (b) "Related condition" does not include mental illness, psychiatric impairment, or  
7410 serious emotional or behavioral disturbance.

7411 (70) (a) "Residual parental rights and duties" means the rights and duties remaining  
7412 with a parent after legal custody or guardianship, or both, have been vested in another person or  
7413 agency, including:

- 7414 (i) the responsibility for support;
- 7415 (ii) the right to consent to adoption;
- 7416 (iii) the right to determine the child's religious affiliation; and
- 7417 (iv) the right to reasonable parent-time unless restricted by the court.

7418 (b) If no guardian has been appointed, "residual parental rights and duties" includes the  
7419 right to consent to:

- 7420 (i) marriage;
- 7421 (ii) enlistment; and
- 7422 (iii) major medical, surgical, or psychiatric treatment.

7423 (71) "Runaway" means a child, other than an emancipated child, who willfully leaves  
7424 the home of the child's parent or guardian, or the lawfully prescribed residence of the child,  
7425 without permission.

7426 (72) "Secure care" means placement of a minor, who is committed to the Division of  
7427 Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under  
7428 contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour  
7429 supervision and confinement of the minor.

7430 (73) "Secure care facility" means a facility, established in accordance with Section  
7431 [80-5-503](#), for juvenile offenders in secure care.

7432 (74) "Secure detention" means temporary care of a minor who requires secure custody  
7433 in a physically restricting facility operated by, or under contract with, the Division of Juvenile  
7434 Justice and Youth Services:



- 7435 (a) before disposition of an offense that is alleged to have been committed by the  
7436 minor; or
- 7437 (b) under Section 80-6-704.
- 7438 (75) "Serious youth offender" means an individual who:
- 7439 (a) is at least 14 years old, but under 25 years old;
- 7440 (b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction  
7441 of the juvenile court was extended over the individual's case until the individual was 25 years  
7442 old in accordance with Section 80-6-605; and
- 7443 (c) is committed by the juvenile court to the Division of Juvenile Justice and Youth  
7444 Services for secure care under Sections 80-6-703 and 80-6-705.
- 7445 (76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a  
7446 child.
- 7447 (77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a  
7448 child.
- 7449 (78) (a) "Severe type of child abuse or neglect" means, except as provided in  
7450 Subsection (78)(b):
- 7451 (i) if committed by an individual who is 18 years old or older:
- 7452 (A) chronic abuse;
- 7453 (B) severe abuse;
- 7454 (C) sexual abuse;
- 7455 (D) sexual exploitation;
- 7456 (E) abandonment;
- 7457 (F) chronic neglect; or
- 7458 (G) severe neglect; or
- 7459 (ii) if committed by an individual who is under 18 years old:
- 7460 (A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another  
7461 child that indicates a significant risk to other children; or
- 7462 (B) sexual behavior with or upon another child that indicates a significant risk to other  
7463 children.
- 7464 (b) "Severe type of child abuse or neglect" does not include:
- 7465 (i) the use of reasonable and necessary physical restraint by an educator in accordance

7466 with Subsection 53G-8-302(2) or Section 76-2-401;

7467 (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the  
7468 use of reasonable and necessary physical restraint or force in self-defense or otherwise  
7469 appropriate to the circumstances to obtain possession of a weapon or other dangerous object in  
7470 the possession or under the control of a child or to protect the child or another individual from  
7471 physical injury; or

7472 (iii) a health care decision made for a child by a child's parent or guardian, unless,  
7473 subject to Subsection (78)(c), the state or other party to the proceeding shows, by clear and  
7474 convincing evidence, that the health care decision is not reasonable and informed.

7475 (c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the  
7476 right to obtain a second health care opinion.

7477 (79) "Sexual abuse" means:

7478 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an  
7479 adult directed towards a child;

7480 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation  
7481 committed by a child towards another child if:

7482 (i) there is an indication of force or coercion;

7483 (ii) the children are related, as described in Subsection (39), including siblings by  
7484 marriage while the marriage exists or by adoption;

7485 (iii) there have been repeated incidents of sexual contact between the two children,  
7486 unless the children are 14 years old or older; or

7487 (iv) there is a disparity in chronological age of four or more years between the two  
7488 children;

7489 (c) engaging in any conduct with a child that would constitute an offense under any of  
7490 the following, regardless of whether the individual who engages in the conduct is actually  
7491 charged with, or convicted of, the offense:

7492 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the  
7493 alleged perpetrator of an offense described in Section 76-5-401 is a minor;

7494 (ii) child bigamy, Section 76-7-101.5;

7495 (iii) incest, Section 76-7-102;

7496 (iv) lewdness, Section 76-9-702;

- 7497 (v) sexual battery, Section [76-9-702.1](#);
- 7498 (vi) lewdness involving a child, Section [76-9-702.5](#); or
- 7499 (vii) voyeurism, Section [76-9-702.7](#); or
- 7500 (d) subjecting a child to participate in or threatening to subject a child to participate in
- 7501 a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural
- 7502 marriage.
- 7503 (80) "Sexual exploitation" means knowingly:
- 7504 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
- 7505 (i) pose in the nude for the purpose of sexual arousal of any individual; or
- 7506 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,
- 7507 filming, recording, or displaying in any way the sexual or simulated sexual conduct;
- 7508 (b) displaying, distributing, possessing for the purpose of distribution, or selling
- 7509 material depicting a child:
- 7510 (i) in the nude, for the purpose of sexual arousal of any individual; or
- 7511 (ii) engaging in sexual or simulated sexual conduct; or
- 7512 (c) engaging in any conduct that would constitute an offense under Section [76-5b-201](#),
- 7513 sexual exploitation of a minor, or Section [76-5b-201.1](#), aggravated sexual exploitation of a
- 7514 minor, regardless of whether the individual who engages in the conduct is actually charged
- 7515 with, or convicted of, the offense.
- 7516 (81) "Shelter" means the temporary care of a child in a physically unrestricted facility
- 7517 pending a disposition or transfer to another jurisdiction.
- 7518 (82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.
- 7519 (83) "Significant risk" means a risk of harm that is determined to be significant in
- 7520 accordance with risk assessment tools and rules established by the Division of Child and
- 7521 Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
- 7522 Act, that focus on:
- 7523 (a) age;
- 7524 (b) social factors;
- 7525 (c) emotional factors;
- 7526 (d) sexual factors;
- 7527 (e) intellectual factors;

7528 (f) family risk factors; and

7529 (g) other related considerations.

7530 (84) "Single criminal episode" means the same as that term is defined in Section  
7531 76-1-401.

7532 (85) "Status offense" means an offense that would not be an offense but for the age of  
7533 the offender.

7534 (86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or  
7535 excessive use of alcohol or other drugs or substances.

7536 (87) "Substantiated" or "substantiation" means a judicial finding based on a  
7537 preponderance of the evidence, and separate consideration of each allegation made or identified  
7538 in the case, that abuse, neglect, or dependency occurred .

7539 (88) "Substitute care" means:

7540 (a) the placement of a minor in a family home, group care facility, or other placement  
7541 outside the minor's own home, either at the request of a parent or other responsible relative, or  
7542 upon court order, when it is determined that continuation of care in the minor's own home  
7543 would be contrary to the minor's welfare;

7544 (b) services provided for a minor in the protective custody of the Division of Child and  
7545 Family Services, or a minor in the temporary custody or custody of the Division of Child and  
7546 Family Services, as those terms are defined in Section 80-2-102; or

7547 (c) the licensing and supervision of a substitute care facility.

7548 (89) "Supported" means a finding by the Division of Child and Family Services based  
7549 on the evidence available at the completion of an investigation, and separate consideration of  
7550 each allegation made or identified during the investigation, that there is a reasonable basis to  
7551 conclude that abuse, neglect, or dependency occurred.

7552 (90) "Termination of parental rights" means the permanent elimination of all parental  
7553 rights and duties, including residual parental rights and duties, by court order.

7554 (91) "Therapist" means:

7555 (a) an individual employed by a state division or agency for the purpose of conducting  
7556 psychological treatment and counseling of a minor in the division's or agency's custody; or

7557 (b) any other individual licensed or approved by the state for the purpose of conducting  
7558 psychological treatment and counseling.

7559 (92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating  
7560 that the child is at an unreasonable risk of harm or neglect.

7561 (93) "Ungovernable" means a child in conflict with a parent or guardian, and the  
7562 conflict:

7563 (a) results in behavior that is beyond the control or ability of the child, or the parent or  
7564 guardian, to manage effectively;

7565 (b) poses a threat to the safety or well-being of the child, the child's family, or others;  
7566 or

7567 (c) results in the situations described in Subsections (93)(a) and (b).

7568 (94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to  
7569 conclude that abuse, neglect, or dependency occurred.

7570 (95) "Unsupported" means a finding by the Division of Child and Family Services at  
7571 the completion of an investigation, after the day on which the Division of Child and Family  
7572 Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is  
7573 insufficient evidence to conclude that abuse, neglect, or dependency occurred.

7574 (96) "Validated risk and needs assessment" means an evidence-based tool that assesses  
7575 a minor's risk of reoffending and a minor's criminogenic needs.

7576 (97) "Without merit" means a finding at the completion of an investigation by the  
7577 Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or  
7578 dependency did not occur, or that the alleged perpetrator was not responsible for the abuse,  
7579 neglect, or dependency.

7580 (98) "Youth offender" means an individual who is:

7581 (a) at least 12 years old, but under 21 years old; and

7582 (b) committed by the juvenile court to the Division of Juvenile Justice and Youth  
7583 Services for secure care under Sections 80-6-703 and 80-6-705.

7584 Section 126. Section **80-1-103** is amended to read:

7585 **80-1-103. Cooperation of political subdivisions and public or private agencies**  
7586 **and organizations.**

7587 (1) Every county, municipality, and school district, and the Department of [~~Human~~  
7588 ~~Services~~] Health and Human Services, the Division of Juvenile Justice and Youth Services, the  
7589 Division of Child and Family Services, [~~the Department of Health, the Division of Substance~~

7590 ~~Abuse]~~ the Office of Substance Use and Mental Health, the State Board of Education, and state  
7591 and local law enforcement officers, shall render all assistance and cooperation within their  
7592 jurisdiction and power to further the provisions of this title.

7593 (2) A juvenile court is authorized to seek the cooperation of all agencies and  
7594 organizations, public or private, whose objective is the protection or aid of minors.

7595 Section 127. Section **80-2-501** is amended to read:

7596 **80-2-501. Children's Account.**

7597 (1) There is created a restricted account within the General Fund known as the  
7598 "Children's Account."

7599 (2) The account shall be funded by:

7600 (a) appropriations to the account by the Legislature;

7601 (b) revenues received under Section ~~[26-2-12.5]~~ [26B-8-112](#); and

7602 (c) transfers, grants, gifts, bequests, or any money made available from any source for  
7603 the abuse and neglect prevention programs described in Subsection [80-2-503](#)(3).

7604 (3) The Legislature shall appropriate money in the account to the division.

7605 (4) (a) The director shall consult with the executive director of the department before  
7606 using the funds in the account as described in this section.

7607 (b) Except as provided in Subsection (5), the account may be used only to implement  
7608 prevention programs described in Section [80-2-503](#), and may only be allocated to an entity that  
7609 provides a one-to-one match, comprising a match from the community of at least 50% in cash  
7610 and up to 50% in in-kind donations, which is 25% of the total funding received from the  
7611 account.

7612 (5) Upon recommendation of the executive director of the department and the council,  
7613 the division may reduce or waive the match requirements described in Subsection (4) for an  
7614 entity, if the division determines that imposing the requirements would prohibit or limit the  
7615 provision of services needed in a particular geographic area.

7616 Section 128. Section **80-2-603** is amended to read:

7617 **80-2-603. Fetal alcohol syndrome or spectrum disorder and drug dependency**  
7618 **reporting requirements.**

7619 (1) As used in this section:

7620 (a) "Health care provider" means:

- 7621 (i) an individual licensed under:
- 7622 (A) Title 58, Chapter 31b, Nurse Practice Act;
- 7623 (B) Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 7624 (C) Title 58, Chapter 67, Utah Medical Practice Act;
- 7625 (D) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- 7626 (E) Title 58, Chapter 70a, Utah Physician Assistant Act; or
- 7627 (F) Title 58, Chapter 77, Direct-Entry Midwife Act; or
- 7628 (ii) an unlicensed individual who practices midwifery.
- 7629 (b) "Newborn child" means a child who is 30 days old or younger.
- 7630 (c) "Recommending medical provider" means the same as that term is defined in
- 7631 Section ~~[26-61a-102]~~ [26B-4-201](#).
- 7632 (d) (i) "Substance abuse" means, except as provided in Subsection (1)(d)(ii), the same
- 7633 as that term is defined in Section [80-1-102](#).
- 7634 (ii) "Substance abuse" does not include use of drugs or other substances that are:
- 7635 (A) obtained by lawful prescription and used as prescribed; or
- 7636 (B) obtained in accordance with ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~
- 7637 Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and used as
- 7638 recommended by a recommending medical provider.
- 7639 (2) A health care provider who attends the birth of a newborn child or cares for a
- 7640 newborn child and determines the following, shall report the determination to the division as
- 7641 soon as possible:
- 7642 (a) the newborn child:
- 7643 (i) is adversely affected by the child's mother's substance abuse during pregnancy;
- 7644 (ii) has fetal alcohol syndrome or fetal alcohol spectrum disorder; or
- 7645 (iii) demonstrates drug or alcohol withdrawal symptoms; or
- 7646 (b) the parent of the newborn child or a person responsible for the child's care
- 7647 demonstrates functional impairment or an inability to care for the child as a result of the
- 7648 parent's or person's substance abuse.
- 7649 (3) The physician-patient privilege does not:
- 7650 (a) excuse an individual who is licensed under Title 58, Chapter 67, Utah Medical
- 7651 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from reporting

7652 under this section; or

7653 (b) constitute grounds for excluding evidence regarding the child's injuries, or the  
7654 cause of the child's injuries, in a judicial or administrative proceeding resulting from a report  
7655 under this section.

7656 Section 129. Section **80-2-604** is amended to read:

7657 **80-2-604. Death of a child reporting requirements.**

7658 (1) A person who has reason to believe that a child has died as a result of abuse or  
7659 neglect shall report that fact to:

7660 (a) the local law enforcement agency; and

7661 (b) the appropriate medical examiner in accordance with [~~Title 26, Chapter 4, Utah~~  
7662 ~~Medical Examiner Act~~] Title 26B, Chapter 8, Part 2, Utah Medical Examiner.

7663 (2) After receiving a report described in Subsection (1):

7664 (a) the local law enforcement agency shall report to the county attorney or district  
7665 attorney as provided under Section [17-18a-202](#) or [17-18a-203](#); and

7666 (b) the medical examiner shall investigate and report the medical examiner's findings  
7667 to:

7668 (i) the police;

7669 (ii) the appropriate county attorney or district attorney;

7670 (iii) the attorney general's office;

7671 (iv) the division; and

7672 (v) if the institution making the report is a hospital, to the hospital.

7673 Section 130. Section **80-2-802** is amended to read:

7674 **80-2-802. Division child placing and adoption services -- Restrictions on**  
7675 **placement of a child.**

7676 (1) Except as provided in Subsection (3), the division may provide adoption services  
7677 and, as a licensed child-placing agency under [~~Title 62A, Chapter 2, Licensure of Programs and~~  
7678 ~~Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities, engage in  
7679 child placing in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a  
7680 Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination  
7681 and Restoration of Parental Rights.

7682 (2) The division shall base the division's decision for placement of an adoptable child



7683 for adoption on the best interest of the adoptable child.

7684 (3) The division may not:

7685 (a) in accordance with Subsection [~~62A-2-108.6(6)~~] 26B-2-127(6), place a child for  
7686 adoption, either temporarily or permanently, with an individual who does not qualify for  
7687 adoptive placement under Sections 78B-6-102, 78B-6-117, and 78B-6-137;

7688 (b) consider a potential adoptive parent's willingness or unwillingness to enter a  
7689 postadoption contact agreement under Section 78B-6-146 as a condition of placing a child with  
7690 a potential adoptive parent; or

7691 (c) except as required under the Indian Child Welfare Act, 25 U.S.C. Secs. 1901  
7692 through 1963, base the division's decision for placement of an adoptable child on the race,  
7693 color, ethnicity, or national origin of either the child or the potential adoptive parent.

7694 (4) The division shall establish a rule in accordance with Title 63G, Chapter 3, Utah  
7695 Administrative Rulemaking Act, providing that, subject to Subsection (3) and Section  
7696 78B-6-117, priority of placement shall be provided to a family in which a couple is legally  
7697 married under the laws of the state.

7698 (5) Subsections (3) and (4) do not limit the placement of a child with the child's  
7699 biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25  
7700 U.S.C. Sec. 1901 et seq.

7701 Section 131. Section **80-2-803** is amended to read:

7702 **80-2-803. Division promotion of adoption -- Adoption research and informational**  
7703 **pamphlet.**

7704 The division shall:

7705 (1) [~~in accordance with Section 62A-2-126;~~] actively promote the adoption of all  
7706 children in the division's custody who have a final plan for termination of parental rights under  
7707 Section 80-3-409 or a primary permanency plan of adoption;

7708 (2) develop plans for the effective use of cross-jurisdictional resources to facilitate  
7709 timely adoptive or permanent placements for waiting children;

7710 (3) obtain information or conduct research regarding prior adoptive families to  
7711 determine what families may do to be successful with an adoptive child;

7712 (4) make the information or research described in Subsection (3) available to potential  
7713 adoptive parents;

7714 (5) prepare a pamphlet that explains the information that a child-placing agency is  
7715 required to provide a potential adoptive parent under Subsection [~~62A-2-126(2)(b)~~]  
7716 [78B-24-303](#);

7717 (6) regularly distribute copies of the pamphlet described in Subsection (5) to  
7718 child-placing agencies; and

7719 (7) respond to an inquiry made as a result of the notice provided by a child-placing  
7720 agency under Subsection [~~62A-2-126(2)(b)~~] [78B-24-303](#).

7721 Section 132. Section **80-2-804** is amended to read:

7722 **80-2-804. Adoptive placement time frame -- Division contracts with child-placing**  
7723 **agencies.**

7724 (1) Subject to this part, for a child who has a primary permanency plan of adoption or  
7725 for whom a final plan for pursuing termination of parental rights is approved in accordance  
7726 with Section [80-3-409](#), the division shall make intensive efforts to place the child in an  
7727 adoptive home within 30 days after the earlier of the day on which:

7728 (a) the final plan is approved; or

7729 (b) the primary permanency plan is established.

7730 (2) If within the time periods described in Subsection (1) the division is unable to  
7731 locate a suitable adoptive home, the division shall [~~in accordance with Section [62A-2-126](#);~~  
7732 ~~]contract with a variety of child-placing agencies licensed under [Title [62A](#), Chapter 2,~~  
7733 ~~Licensure of Programs and Facilities]~~ Title 26B, Chapter 2, Part 1, Human Services Programs  
7734 and Facilities, to search for an appropriate adoptive home for the child, and to place the child  
7735 for adoption.

7736 Section 133. Section **80-2-909** is amended to read:

7737 **80-2-909. Existing authority for child placement continues.**

7738 Any person who, under any law of this state other than this part or the Interstate  
7739 Compact on the Placement of Children established under Section [80-2-905](#), has authority to  
7740 make or assist in making the placement of a child, shall continue to have the ability lawfully to  
7741 make or assist in making that placement, and the provisions of Sections [~~[62A-2-108.6](#);~~  
7742 ~~[62A-2-115.1](#), [62A-2-115.2](#), [62A-2-126](#), [62A-2-127](#)~~] [26B-2-127](#), [26B-2-131](#), [26B-2-132](#),  
7743 [26B-2-133](#), Subsections [80-2-802\(3\)\(a\)](#) and (4) and [80-2-803\(1\)](#), (2), and (5) through (7), and  
7744 Title 78B, Chapter 6, Part 1, Utah Adoption Act, continue to apply.

7745 Section 134. Section **80-2-1001** is amended to read:

7746 **80-2-1001. Management Information System -- Contents -- Classification of**  
7747 **records -- Access.**

7748 (1) The division shall develop and implement a Management Information System that  
7749 meets the requirements of this section and the requirements of federal law and regulation.

7750 (2) The Management Information System shall:

7751 (a) contain all key elements of each family's current child and family plan, including:

7752 (i) the dates and number of times the plan has been administratively or judicially  
7753 reviewed;

7754 (ii) the number of times the parent failed the child and family plan; and

7755 (iii) the exact length of time the child and family plan has been in effect; and

7756 (b) alert child welfare caseworkers regarding deadlines for completion of and  
7757 compliance with policy, including child and family plans.

7758 (3) For a child welfare case, the Management Information System shall provide each  
7759 child welfare caseworker and the Office of Licensing created in Section [~~62A-2-103~~]

7760 26B-2-103, exclusively for the purposes of foster parent licensure and monitoring, with a  
7761 complete history of each child in the child welfare caseworker's caseload, including:

7762 (a) a record of all past action taken by the division with regard to the child and the  
7763 child's siblings;

7764 (b) the complete case history and all reports and information in the control or keeping  
7765 of the division regarding the child and the child's siblings;

7766 (c) the number of times the child has been in the protective custody, temporary  
7767 custody, and custody of the division;

7768 (d) the cumulative period of time the child has been in the custody of the division;

7769 (e) a record of all reports of abuse or neglect received by the division with regard to the  
7770 child's parent or guardian including:

7771 (i) for each report, documentation of the:

7772 (A) latest status; or

7773 (B) final outcome or determination; and

7774 (ii) information that indicates whether each report was found to be:

7775 (A) supported;

- 7776 (B) unsupported;
- 7777 (C) substantiated;
- 7778 (D) unsubstantiated; or
- 7779 (E) without merit;
- 7780 (f) the number of times the child's parent failed any child and family plan; and
- 7781 (g) the number of different child welfare caseworkers who have been assigned to the
- 7782 child in the past.
- 7783 (4) For child protective services cases, the Management Information System shall:
- 7784 (a) monitor the compliance of each case with:
- 7785 (i) division rule;
- 7786 (ii) state law; and
- 7787 (iii) federal law and regulation; and
- 7788 (b) include the age and date of birth of the alleged perpetrator at the time the abuse or
- 7789 neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of
- 7790 the alleged perpetrator.
- 7791 (5) Information or a record contained in the Management Information System is:
- 7792 (a) a private, controlled, or protected record under Title 63G, Chapter 2, Government
- 7793 Records Access and Management Act; and
- 7794 (b) available only:
- 7795 (i) to a person or government entity with statutory authorization under Title 63G,
- 7796 Chapter 2, Government Records Access and Management Act, to review the information or
- 7797 record;
- 7798 (ii) to a person who has specific statutory authorization to access the information or
- 7799 record for the purpose of assisting the state with state or federal requirements to maintain
- 7800 information solely for the purpose of protecting minors and providing services to families in
- 7801 need;
- 7802 (iii) to the extent required by Title IV(b) or IV(e) of the Social Security Act:
- 7803 (A) to comply with abuse and neglect registry checks requested by other states; or
- 7804 (B) to the United States Department of Health and Human Services for purposes of
- 7805 maintaining an electronic national registry of supported or substantiated cases of abuse and
- 7806 neglect;

7807 (iv) to the department, upon the approval of the executive director of the department,  
7808 on a need-to-know basis; or

7809 (v) as provided in Subsection (6) or Section 80-2-1002.

7810 (6) (a) The division may allow a division contract provider, court clerk designated by  
7811 the Administrative Office of the Courts, the Office of Guardian Ad Litem, or Indian tribe to  
7812 have limited access to the Management Information System.

7813 (b) A division contract provider or Indian tribe has access only to information about a  
7814 person who is currently receiving services from the specific contract provider or Indian tribe.

7815 (c) A court clerk may only have access to information necessary to comply with  
7816 Subsection 78B-7-202(2).

7817 (d) (i) The Office of Guardian Ad Litem may only access:

7818 (A) the information that is entered into the Management Information System on or after  
7819 July 1, 2004, and relates to a child or family where the Office of Guardian Ad Litem is  
7820 appointed by a court to represent the interests of the child; or

7821 (B) any abuse or neglect referral about a child or family where the office has been  
7822 appointed by a court to represent the interests of the child, regardless of the date that the  
7823 information is entered into the Management Information System.

7824 (ii) The division may use the information in the Management Information System to  
7825 screen an individual as described in Subsection 80-2-1002(4)(b)(ii)(A) at the request of the  
7826 Office of Guardian Ad Litem.

7827 (e) A contract provider or designated representative of the Office of Guardian Ad  
7828 Litem or an Indian tribe who requests access to information contained in the Management  
7829 Information System shall:

7830 (i) take all necessary precautions to safeguard the security of the information contained  
7831 in the Management Information System;

7832 (ii) train its employees regarding:

7833 (A) requirements for protecting the information contained in the Management  
7834 Information System under this chapter and under Title 63G, Chapter 2, Government Records  
7835 Access and Management Act; and

7836 (B) the criminal penalties under Sections 63G-2-801 and 80-2-1005 for improper  
7837 release of information; and

7838 (iii) monitor its employees to ensure that the employees protect the information  
7839 contained in the Management Information System as required by law.

7840 (7) The division shall take:

7841 (a) all necessary precautions, including password protection and other appropriate and  
7842 available technological techniques, to prevent unauthorized access to or release of information  
7843 contained in the Management Information System; and

7844 (b) reasonable precautions to ensure that the division's contract providers comply with  
7845 Subsection (6).

7846 Section 135. Section **80-2-1002** is amended to read:

7847 **80-2-1002. Licensing Information System -- Contents -- Classification of records**  
7848 **-- Access -- Unlawful release -- Penalty.**

7849 (1) (a) The division shall maintain a sub-part of the Management Information System  
7850 as the Licensing Information System to be used:

7851 (i) for licensing purposes; or

7852 (ii) as otherwise provided by law.

7853 (b) Notwithstanding Subsection (1)(a), the department's access to information in the  
7854 Management Information System for the licensure and monitoring of a foster parent is  
7855 governed by Sections **80-2-1001** and [~~62A-2-121~~] [26B-2-121](#).

7856 (2) The Licensing Information System shall include only the following information:

7857 (a) the name and other identifying information of the alleged perpetrator in a supported  
7858 finding, without identifying the alleged perpetrator as a perpetrator or alleged perpetrator;

7859 (b) a notation to the effect that an investigation regarding the alleged perpetrator  
7860 described in Subsection (2)(a) is pending;

7861 (c) the information described in Subsection (3);

7862 (d) consented-to supported findings by an alleged perpetrator under Subsection  
7863 [80-2-708\(3\)\(a\)\(iii\)](#);

7864 (e) a finding from the juvenile court under Section [80-3-404](#); and

7865 (f) the information in the licensing part of the division's Management Information  
7866 System as of May 6, 2002.

7867 (3) Subject to Section [80-2-1003](#), upon receipt of a finding from the juvenile court  
7868 under Section [80-3-404](#), the division shall:

- 7869 (a) promptly amend the Licensing Information System to include the finding; and  
7870 (b) enter the finding in the Management Information System.
- 7871 (4) Information or a record contained in the Licensing Information System is:  
7872 (a) a protected record under Title 63G, Chapter 2, Government Records Access and  
7873 Management Act; and  
7874 (b) notwithstanding Title 63G, Chapter 2, Government Records Access and  
7875 Management Act, accessible only:  
7876 (i) to the Office of Licensing created in Section [~~62A-2-103~~] 26B-2-103:  
7877 (A) for licensing purposes; or  
7878 (B) as otherwise specifically provided for by law;  
7879 (ii) to the division to:  
7880 (A) screen an individual at the request of the Office of Guardian Ad Litem at the time  
7881 the individual seeks a paid or voluntary position with the Office of Guardian Ad Litem and  
7882 annually throughout the time that the individual remains with the Office of Guardian Ad Litem;  
7883 and  
7884 (B) respond to a request for information from an individual whose name is listed in the  
7885 Licensing Information System;  
7886 (iii) to a person designated by the Department of Health and [~~approved by the~~  
7887 ~~Department of~~] Human Services, only for the following purposes:  
7888 (A) licensing a child care program or provider;  
7889 (B) determining whether an individual associated with a child care facility, program, or  
7890 provider, who is exempt from being licensed or certified by the [~~Department of Health under~~  
7891 ~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Department of Health and Human  
7892 Services under Title 26B, Chapter 2, Part 4, Child Care Licensing, has a supported finding of a  
7893 severe type of child abuse or neglect; or  
7894 (C) determining whether an individual who is seeking an emergency medical services  
7895 license has a supported finding of a severe type of child abuse or neglect;  
7896 (iv) to a person designated by the Department of Workforce Services and approved by  
7897 the Department of [~~Human Services~~] Health and Human Services for the purpose of qualifying  
7898 a child care provider under Section 35A-3-310.5;  
7899 (v) as provided in Section [~~62A-2-121~~] 26B-2-121; or

7900 (vi) to the department or another person, as provided in this chapter.

7901 (5) A person designated by the Department of [~~Health~~] Health and Human Services or  
7902 the Department of Workforce Services under Subsection (4) shall adopt measures to:

7903 (a) protect the security of the Licensing Information System; and

7904 (b) strictly limit access to the Licensing Information System to persons allowed access  
7905 by statute.

7906 (6) The department shall approve a person allowed access by statute to information or a  
7907 record contained in the Licensing Information System and provide training to the person with  
7908 respect to:

7909 (a) accessing the Licensing Information System;

7910 (b) maintaining strict security; and

7911 (c) the criminal provisions of Sections [63G-2-801](#) and [80-2-1005](#) pertaining to the  
7912 improper release of information.

7913 (7) (a) Except as authorized by this chapter, a person may not request another person to  
7914 obtain or release any other information in the Licensing Information System to screen for  
7915 potential perpetrators of abuse or neglect.

7916 (b) A person who requests information knowing that the request is a violation of this  
7917 Subsection (7) is subject to the criminal penalties described in Sections [63G-2-801](#) and  
7918 [80-2-1005](#).

7919 Section 136. Section **80-2-1005** is amended to read:

7920 **80-2-1005. Classification of reports of alleged abuse or neglect -- Confidential**  
7921 **identity of a person who reports -- Access -- Admitting reports into evidence -- Unlawful**  
7922 **release and use -- Penalty.**

7923 (1) Except as otherwise provided in this chapter or Chapter 2a, Removal and Protective  
7924 Custody of a Child, a report made under Part 6, Child Abuse and Neglect Reports, and any  
7925 other information in the possession of the division obtained as a result of the report is a private,  
7926 protected, or controlled record under Title 63G, Chapter 2, Government Records Access and  
7927 Management Act, and may only be made available to:

7928 (a) a police or law enforcement agency investigating a report of known or suspected  
7929 abuse or neglect, including members of a child protection team;

7930 (b) a physician who reasonably believes that a child may be the subject of abuse or



7931 neglect;

7932 (c) an agency that has responsibility or authority to care for, treat, or supervise a minor  
7933 who is the subject of a report;

7934 (d) a contract provider that has a written contract with the division to render services to  
7935 a minor who is the subject of a report;

7936 (e) the subject of the report, the natural parents of the child, and the guardian ad litem;

7937 (f) a court, upon a finding that access to the records may be necessary for the  
7938 determination of an issue before the court, provided that in a divorce, custody, or related  
7939 proceeding between private parties, the record alone is:

7940 (i) limited to objective or undisputed facts that were verified at the time of the  
7941 investigation; and

7942 (ii) devoid of conclusions drawn by the division or any of the division's workers on the  
7943 ultimate issue of whether or not an individual's acts or omissions constituted any level of abuse  
7944 or neglect of another individual;

7945 (g) an office of the public prosecutor or the public prosecutor's deputies in performing  
7946 an official duty;

7947 (h) a person authorized by a Children's Justice Center, for the purposes described in  
7948 Section [67-5b-102](#);

7949 (i) a person engaged in bona fide research, when approved by the director of the  
7950 division, if the information does not include names and addresses;

7951 (j) the State Board of Education, acting on behalf of itself or on behalf of a local  
7952 education agency, as defined in Section [63J-5-102](#), for the purpose of evaluating whether an  
7953 individual should be permitted to obtain or retain a license as an educator or serve as an  
7954 employee or volunteer in a school, limited to information with substantiated or supported  
7955 findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug  
7956 offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against  
7957 the Individual, and with the understanding that the office must provide the subject of a report  
7958 received under Subsection (1)(k) with an opportunity to respond to the report before making a  
7959 decision concerning licensure or employment;

7960 (k) any individual identified in the report as a perpetrator or possible perpetrator of  
7961 abuse or neglect, after being advised of the screening prohibition in Subsection (2);

7962 (l) a person filing a petition for a child protective order on behalf of a child who is the  
7963 subject of the report;

7964 (m) a licensed child-placing agency or person who is performing a preplacement  
7965 adoptive evaluation in accordance with the requirements of Sections [78B-6-128](#) and  
7966 [78B-6-130](#);

7967 (n) an Indian tribe to:

7968 (i) certify or license a foster home;

7969 (ii) render services to a subject of a report; or

7970 (iii) investigate an allegation of abuse, neglect, or dependency; or

7971 (o) the department or a local substance abuse authority, described in Section  
7972 [17-43-201](#), for the purpose of providing substance abuse treatment to a pregnant woman or a  
7973 parent of a newborn child, or the services described in Subsection [~~[62A-15-103\(2\)\(p\)](#)~~  
7974 [26B-5-102\(2\)\(p\)](#)].

7975 (2) In accordance with Section [80-2-608](#) and except as provided in Section [80-2-611](#),  
7976 the division and a law enforcement agency shall ensure the anonymity of the person who makes  
7977 the initial report under Part 6, Child Abuse and Neglect Reports, and any other person involved  
7978 in the division's or law enforcement agency's subsequent investigation of the report.

7979 (3) Notwithstanding any other provision of law, excluding Section [80-3-107](#), but  
7980 including this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Title 63G,  
7981 Chapter 2, Government Records Access and Management Act, if the division makes a report or  
7982 other information in the division's possession available under Subsection (1)(e) to a subject of  
7983 the report or a parent of a child, the division shall remove from the report or other information  
7984 only the names, addresses, and telephone numbers of individuals or specific information that  
7985 could:

7986 (a) identify the referent;

7987 (b) impede a criminal investigation; or

7988 (c) endanger an individual's safety.

7989 (4) A child-placing agency or person who receives a report from the division under  
7990 Subsection (1)(m) may provide the report to:

7991 (a) the subject of the report;

7992 (b) a person who is performing a preplacement adoptive evaluation in accordance with

7993 Sections 78B-6-128 and 78B-6-130;

7994 (c) to a licensed child-placing agency; or

7995 (d) an attorney seeking to facilitate an adoption.

7996 (5) A member of a child protection team may, before the day on which the child is  
7997 removed, share case-specific information obtained from the division under this section with  
7998 other members of the child protection team.

7999 (6) (a) Except as provided in Subsection (6)(b), in a divorce, custody, or related  
8000 proceeding between private parties, a court may not receive into evidence a report that:

8001 (i) is provided to the court:

8002 (A) under Subsection (1)(f); or

8003 (B) by a parent of the child after the record is made available to the parent under  
8004 Subsection (1)(e);

8005 (ii) describes a parent of the child as the alleged perpetrator; and

8006 (iii) is found to be unsubstantiated, unsupported, or without merit.

8007 (b) (i) After a motion to admit the report described in Subsection (6)(a) is made, the  
8008 court shall allow sufficient time for all subjects of the record to respond before making a  
8009 finding on the motion.

8010 (ii) After considering the motion described in Subsection (6)(b)(i), the court may  
8011 receive the report into evidence upon a finding on the record of good cause.

8012 (7) (a) A person may not:

8013 (i) willfully permit, or aid and abet, the release of data or information in the possession  
8014 of the division or contained in the Management Information System in violation of this part or  
8015 Part 6, Child Abuse and Neglect Reports; or

8016 (ii) if the person is not listed in Subsection (1), request another person to obtain or  
8017 release a report or other information that the other person obtained under Subsection (1)(k) to  
8018 screen for potential perpetrators of abuse or neglect.

8019 (b) A person who violates Subsection (7)(a)(i), or violates Subsection (7)(a)(ii)  
8020 knowing the person's actions are a violation of Subsection (7)(a)(ii), is guilty of a class C  
8021 misdemeanor.

8022 Section 137. Section **80-2a-202** is amended to read:

8023 **80-2a-202. Removal of a child by a peace officer or child welfare caseworker --**

8024 **Search warrants -- Protective custody and temporary care of a child.**

8025 (1) A peace officer or child welfare caseworker may remove a child or take a child into  
8026 protective custody, temporary custody, or custody in accordance with this section.

8027 (2) (a) Except as provided in Subsection (2)(b), a peace officer or a child welfare  
8028 caseworker may not enter the home of a child whose case is not under the jurisdiction of the  
8029 juvenile court, remove a child from the child's home or school, or take a child into protective  
8030 custody unless:

8031 (i) there exist exigent circumstances sufficient to relieve the peace officer or the child  
8032 welfare caseworker of the requirement to obtain a search warrant under Subsection (3);

8033 (ii) the peace officer or child welfare caseworker obtains a search warrant under  
8034 Subsection (3);

8035 (iii) the peace officer or child welfare caseworker obtains a court order after the child's  
8036 parent or guardian is given notice and an opportunity to be heard; or

8037 (iv) the peace officer or child welfare caseworker obtains the consent of the child's  
8038 parent or guardian.

8039 (b) A peace officer or a child welfare caseworker may not take action under Subsection  
8040 (2)(a) solely on the basis of:

8041 (i) educational neglect, truancy, or failure to comply with a court order to attend  
8042 school; or

8043 (ii) the possession or use, in accordance with [~~Title 26, Chapter 61a, Utah Medical~~  
8044 ~~Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, of  
8045 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a  
8046 medical cannabis device, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201.

8047 (3) (a) The juvenile court may issue a warrant authorizing a peace officer or a child  
8048 welfare caseworker to search for a child and take the child into protective custody if it appears  
8049 to the juvenile court upon a verified petition, recorded sworn testimony or an affidavit sworn to  
8050 by a peace officer or another individual, and upon the examination of other witnesses if  
8051 required by the juvenile court, that there is probable cause to believe that:

8052 (i) there is a threat of substantial harm to the child's health or safety;

8053 (ii) it is necessary to take the child into protective custody to avoid the harm described  
8054 in Subsection (3)(a)(i); and

8055 (iii) it is likely that the child will suffer substantial harm if the child's parent or  
8056 guardian is given notice and an opportunity to be heard before the child is taken into protective  
8057 custody.

8058 (b) In accordance with Section 77-23-210, a peace officer making the search under  
8059 Subsection (3)(a) may enter a house or premises by force, if necessary, in order to remove the  
8060 child.

8061 (4) (a) A child welfare caseworker may take action under Subsection (2) accompanied  
8062 by a peace officer or without a peace officer if a peace officer is not reasonably available.

8063 (b) (i) Before taking a child into protective custody, and if possible and consistent with  
8064 the child's safety and welfare, a child welfare caseworker shall determine whether there are  
8065 services available that, if provided to a parent or guardian of the child, would eliminate the  
8066 need to remove the child from the custody of the child's parent or guardian.

8067 (ii) In determining whether the services described in Subsection (4)(b)(i) are  
8068 reasonably available, the child welfare caseworker shall consider the child's health, safety, and  
8069 welfare as the paramount concern.

8070 (iii) If the child welfare caseworker determines the services described in Subsection  
8071 (4)(b)(i) are reasonably available, the services shall be utilized.

8072 (5) (a) If a peace officer or a child welfare caseworker takes a child into protective  
8073 custody under Subsection (2), the peace officer or child welfare caseworker shall:

8074 (i) notify the child's parent or guardian in accordance with Section 80-2a-203; and

8075 (ii) release the child to the care of the child's parent or guardian or another responsible  
8076 adult, unless:

8077 (A) the child's immediate welfare requires the child remain in protective custody; or

8078 (B) the protection of the community requires the child's detention in accordance with  
8079 Chapter 6, Part 2, Custody and Detention.

8080 (b) (i) If a peace officer or child welfare caseworker is executing a warrant under  
8081 Subsection (3), the peace officer or child welfare caseworker shall take the child to:

8082 (A) a shelter facility; or

8083 (B) if the division makes an emergency placement under Section 80-2a-301, the  
8084 emergency placement.

8085 (ii) If a peace officer or a child welfare caseworker takes a child to a shelter facility

8086 under Subsection (5)(b)(i), the peace officer or the child welfare caseworker shall promptly file  
8087 a written report that includes the child's information, on a form provided by the division, with  
8088 the shelter facility.

8089 (c) A child removed or taken into protective custody under this section may not be  
8090 placed or kept in detention pending court proceedings, unless the child may be held in  
8091 detention under Chapter 6, Part 2, Custody and Detention.

8092 (6) (a) The juvenile court shall issue a warrant authorizing a peace officer or a child  
8093 welfare worker to search for a child who is missing, has been abducted, or has run away, and  
8094 take the child into physical custody if the juvenile court determines that the child is missing,  
8095 has been abducted, or has run away from the protective custody, temporary custody, or custody  
8096 of the division.

8097 (b) If the juvenile court issues a warrant under Subsection (6)(a):

8098 (i) the division shall notify the child's parent or guardian who has a right to parent-time  
8099 with the child in accordance with Subsection 80-2a-203(5)(a);

8100 (ii) the court shall order:

8101 (A) the law enforcement agency that has jurisdiction over the location from which the  
8102 child ran away to enter a record of the warrant into the National Crime Information Center  
8103 database within 24 hours after the time in which the law enforcement agency receives a copy of  
8104 the warrant; and

8105 (B) the division to notify the law enforcement agency described in Subsection  
8106 (6)(b)(ii)(A) of the order described in Subsection (6)(b)(ii)(A); and

8107 (c) the court shall specify the location to which the peace officer or the child welfare  
8108 caseworker shall transport the child.

8109 Section 138. Section **80-2a-301** is amended to read:

8110 **80-2a-301. Division's emergency placement of a child -- Background checks.**

8111 (1) The division may place a child in an emergency placement if:

8112 (a) the child welfare caseworker makes the determination that:

8113 (i) the child's home is unsafe;

8114 (ii) removal is necessary under Section 80-2a-202; and

8115 (iii) the child's custodial parent or guardian will agree to not remove the child from the  
8116 home of the individual that serves as the placement and not have any contact with the child

8117 until after the time at which the shelter hearing is held under Section 80-3-301;

8118 (b) an individual, with preference being given in accordance with Subsection (4), can  
8119 be identified who has the ability and is willing to provide care for the child who would  
8120 otherwise be placed in shelter care, including:

8121 (i) taking the child to medical, mental health, dental, and educational appointments at  
8122 the request of the division; and

8123 (ii) making the child available to division services and the guardian ad litem; and

8124 (c) the individual described in Subsection (1)(b) agrees to care for the child on an  
8125 emergency basis under the following conditions:

8126 (i) the individual meets the criteria for an emergency placement under Subsection (2);

8127 (ii) the individual agrees to not allow the custodial parent or guardian to have any  
8128 contact with the child until after the time at which the shelter hearing is held unless authorized  
8129 by the division in writing;

8130 (iii) the individual agrees to contact law enforcement and the division if the custodial  
8131 parent or guardian attempts to make unauthorized contact with the child;

8132 (iv) the individual agrees to allow the division and the child's guardian ad litem to have  
8133 access to the child;

8134 (v) the individual is informed and understands that the division may continue to search  
8135 for other possible placements for long-term care of the child, if needed;

8136 (vi) the individual is willing to assist the custodial parent or guardian in reunification  
8137 efforts at the request of the division, and to follow all court orders; and

8138 (vii) the child is comfortable with the individual.

8139 (2) Except as provided in Subsection (4), before the day on which the division places a  
8140 child in an emergency placement, the division:

8141 (a) may request the name of a reference and may contact the reference to determine  
8142 whether:

8143 (i) the individual identified as a reference would place a child in the home of the  
8144 emergency placement; and

8145 (ii) there are any other relatives or friends to consider as a possible emergency or  
8146 long-term placement for the child;

8147 (b) in accordance with Subsection (4)(a), shall have the custodial parent or guardian

8148 sign an emergency placement agreement form during the investigation described in Subsection  
8149 (2)(a);

8150 (c) (i) if the emergency placement will be with a relative, shall comply with the  
8151 background check provisions described in Subsection (6); or

8152 (ii) if the emergency placement will be with an individual other than a noncustodial  
8153 parent or relative, shall comply with the background check provisions described in Subsection  
8154 (7) for adults living in the household where the child will be placed;

8155 (d) shall complete a limited home inspection of the home where the emergency  
8156 placement is made; and

8157 (e) shall require the child welfare caseworker to have the emergency placement  
8158 approved by a supervisor designated by the division.

8159 (3) (a) The division shall apply the following order of preference when determining the  
8160 person with whom a child will be placed in an emergency placement, provided that the  
8161 individual is able and willing to care for the child:

8162 (i) a noncustodial parent of the child in accordance with Section [80-3-302](#);

8163 (ii) a relative;

8164 (iii) subject to Subsection (3)(b), a friend designated by the custodial parent, guardian,  
8165 or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a  
8166 placement;

8167 (iv) a former foster placement designated by the division;

8168 (v) a foster placement, that is not a former foster placement, designated by the division;  
8169 and

8170 (vi) a shelter facility designated by the division.

8171 (b) In determining whether a friend is a willing and appropriate temporary emergency  
8172 placement for a child, the division:

8173 (i) subject to Subsections (3)(b)(ii) through (iv), shall consider the child's preferences  
8174 or level of comfort with the friend;

8175 (ii) is required to consider no more than one friend designated by each parent or legal  
8176 guardian of the child and one friend designated by the child, if the child is of sufficient maturity  
8177 to articulate the child's wishes in relation to a placement;

8178 (iii) may limit the number of designated friends to two, one of whom shall be a friend



8179 designated by the child, if the child is of sufficient maturity to articulate the child's wishes in  
8180 relation to a placement; and

8181 (iv) shall give preference to a friend designated by the child, if:

8182 (A) the child is of sufficient maturity to articulate the child's wishes; and

8183 (B) the division's basis for removing the child under Section 80-2a-202 is sexual abuse  
8184 of the child.

8185 (4) (a) The division may, pending the outcome of the investigation described in  
8186 Subsections (4)(b) and (c), place a child in emergency placement with the child's noncustodial  
8187 parent if, based on a limited investigation before the day on which the division makes the  
8188 emergency placement, the division:

8189 (i) determines that the noncustodial parent has regular, unsupervised visitation with the  
8190 child that is not prohibited by law or court order;

8191 (ii) determines that there is not reason to believe that the child's health or safety will be  
8192 endangered during the emergency placement; and

8193 (iii) has the custodial parent or guardian sign an emergency placement agreement.

8194 (b) Either before or after the day on which the division makes an emergency placement  
8195 with the noncustodial parent of the child, the division may conduct the investigation described  
8196 in Subsection (2)(a) in relation to the noncustodial parent.

8197 (c) Before, or within one day, excluding weekends and holidays, after the day on which  
8198 the division places a child in an emergency placement with the noncustodial parent of the child,  
8199 the division shall conduct a limited:

8200 (i) background check of the noncustodial parent, under Subsection (6); and

8201 (ii) inspection of the home where the emergency placement is made.

8202 (5) After an emergency placement, the child welfare caseworker must:

8203 (a) respond to the emergency placement's calls within one hour after the call is received  
8204 if the custodial parent or guardian attempts to make unauthorized contact with the child or  
8205 attempts to remove the child from the emergency placement;

8206 (b) complete all removal paperwork, including the notice provided to the child's  
8207 custodial parent or guardian under Section 80-3-301;

8208 (c) if the child is not placed with a noncustodial parent, relative, or friend, file a report  
8209 with the child welfare caseworker's supervisor that explains why a different placement is in the

8210 child's best interest;

8211 (d) contact the attorney general to schedule a shelter hearing;

8212 (e) complete the placement procedures required in Section [80-3-302](#); and

8213 (f) continue to search for other relatives as a possible long-term placement for the  
8214 child, if needed.

8215 (6) (a) The background check described in Subsections (2)(c)(i) and (4)(c)(i) shall  
8216 include completion of:

8217 (i) a name-based, Utah Bureau of Criminal Identification background check; and

8218 (ii) a search of the Management Information System.

8219 (b) The division shall determine whether an individual passes the background check  
8220 described in Subsection (6)(a) in accordance with Section [\[62A-2-120\]](#) [26B-2-120](#).

8221 (c) Notwithstanding Subsection (6)(b), the division may not place a child with an  
8222 individual who is prohibited by court order from having access to the child.

8223 (7) (a) The background check described in Subsection (2)(c)(ii) shall include  
8224 completion of:

8225 (i) a name-based, Utah Bureau of Criminal Identification background check;

8226 (ii) a federal name-based criminal background check; and

8227 (iii) a search of the Management Information System.

8228 (b) The division shall determine whether an individual passes the background check  
8229 described in Subsection (7)(a) in accordance with Section [\[62A-2-120\]](#) [26B-2-120](#).

8230 (c) If the division denies placement of a child as a result of a name-based criminal  
8231 background check described in Subsection (7)(a), and the individual contests the denial, the  
8232 individual shall submit a complete set of fingerprints with written permission to the Utah  
8233 Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a  
8234 fingerprint-based criminal background check.

8235 (d) (i) Within 15 calendar days after the day on which the name-based background  
8236 checks are completed, the division shall require the individual to provide a complete set of  
8237 fingerprints with written permission to the Utah Bureau of Criminal Identification for  
8238 submission to the Federal Bureau of Investigation for a fingerprint-based criminal background  
8239 check.

8240 (ii) If the individual fails to provide the fingerprints and written permission described

8241 in Subsection (7)(d)(i), the child shall immediately be removed from the child's home.

8242 Section 139. Section **80-3-110** is amended to read:

8243 **80-3-110. Consideration of cannabis during proceedings -- Drug testing.**

8244 (1) As used in this section:

8245 (a) "Cannabis" means the same as that term is defined in Section [~~26-61a-102~~]

8246 26B-4-201.

8247 (b) "Cannabis product" means the same as that term is defined in Section [~~26-61a-102~~]

8248 26B-4-201.

8249 (c) (i) "Chronic" means repeated or patterned.

8250 (ii) "Chronic" does not mean an isolated incident.

8251 (d) "Directions of use" means the same as that term is defined in Section [~~26-61a-102~~]

8252 26B-4-201.

8253 (e) "Dosing guidelines" means the same as that term is defined in Section [~~26-61a-102~~]

8254 26B-4-201.

8255 (f) "Medical cannabis" means the same as that term is defined in Section [~~26-61a-102~~]

8256 26B-4-201.

8257 (g) "Medical cannabis cardholder" means the same as that term is defined in Section

8258 [~~26-61a-102~~] 26B-4-201.

8259 (h) " Recommending medical provider" means the same as that term is defined in

8260 Section [~~26-61a-102~~] 26B-4-201.

8261 (2) In a proceeding under this chapter, in which the juvenile court makes a finding,

8262 determination, or otherwise considers an individual's medical cannabis card, medical cannabis

8263 recommendation from a recommending medical provider, or possession or use of medical

8264 cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider

8265 or treat the individual's medical cannabis card, recommendation, possession, or use any

8266 differently than the lawful possession or use of any prescribed controlled substance if:

8267 (a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis

8268 Production Establishments;

8269 (b) the individual's possession or use complies with Subsection ~~58-37-3.7~~(2) or (3); or

8270 (c) (i) the individual's possession or use complies with [~~Title 26, Chapter 61a, Utah~~

8271 ~~Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical

8272 Cannabis; and

8273 (ii) the individual reasonably complies with the directions of use and dosing guidelines  
8274 determined by the individual's recommending medical provider or through a consultation  
8275 described in Subsection ~~[26-61a-502]~~ 26B-4-230(4) or (5).

8276 (3) In a proceeding under this chapter, a child's parent's or guardian's use of cannabis or  
8277 a cannabis product is not abuse or neglect of the child unless there is evidence showing that:

8278 (a) the child is harmed because of the child's inhalation or ingestion of cannabis, or  
8279 because of cannabis being introduced to the child's body in another manner; or

8280 (b) the child is at an unreasonable risk of harm because of chronic inhalation or  
8281 ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

8282 (4) Unless there is harm or an unreasonable risk of harm to the child as described in  
8283 Subsection (3), in a child welfare proceeding under this chapter, a child's parent's or guardian's  
8284 use of medical cannabis or a cannabis product is not contrary to the best interests of the child  
8285 if:

8286 (a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's  
8287 possession or use complies with ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~ Title 26B,  
8288 Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and there is no evidence that  
8289 the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of  
8290 use and dosing guidelines determined by the parent's or guardian's recommending medical  
8291 provider or through a consultation described in Subsection ~~[26-61a-502]~~ 26B-4-230(4) or (5);  
8292 or

8293 (b) before January 1, 2021, the parent's or guardian's possession or use complies with  
8294 Subsection ~~58-37-3.7~~(2) or (3).

8295 (5) Subsection (3) does not prohibit a finding of abuse or neglect of a child, and  
8296 Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis  
8297 or a cannabis product is contrary to the best interests of a child, if there is evidence showing a  
8298 nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior  
8299 that would separately constitute abuse or neglect of the child.

8300 (6) If an individual, who is party to a proceeding under this chapter, is ordered by the  
8301 juvenile court to submit to drug testing, or is referred by the division or a guardian ad litem for  
8302 drug testing, the individual may not be ordered or referred for drug testing by means of a hair

8303 or fingernail test that is administered to detect the presence of drugs.

8304 Section 140. Section **80-3-204** is amended to read:

8305 **80-3-204. Protective custody of a child after a petition is filed -- Grounds.**

8306 (1) When an abuse, neglect, or dependency petition is filed, the juvenile court shall  
8307 apply, in addressing the petition, the least restrictive means and alternatives available to  
8308 accomplish a compelling state interest and to prevent irretrievable destruction of family life as  
8309 described in Subsections [80-2a-201](#)(1) and (7)(a) and Section [80-4-104](#).

8310 (2) After an abuse, neglect, or dependency petition is filed, if the child who is the  
8311 subject of the petition is not in protective custody, a juvenile court may order that the child be  
8312 removed from the child's home or otherwise taken into protective custody if the juvenile court  
8313 finds, by a preponderance of the evidence, that any one or more of the following circumstances  
8314 exist:

8315 (a) (i) there is an imminent danger to the physical health or safety of the child; and

8316 (ii) the child's physical health or safety may not be protected without removing the  
8317 child from the custody of the child's parent or guardian;

8318 (b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct  
8319 that causes the child to suffer harm; and

8320 (ii) there are no less restrictive means available by which the child's emotional health  
8321 may be protected without removing the child from the custody of the child's parent or guardian;

8322 (c) the child or another child residing in the same household has been, or is considered  
8323 to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a  
8324 parent or guardian, a member of the parent's or guardian's household, or other individual  
8325 known to the parent or guardian;

8326 (d) the parent or guardian is unwilling to have physical custody of the child;

8327 (e) the child is abandoned or left without any provision for the child's support;

8328 (f) a parent or guardian who has been incarcerated or institutionalized has not arranged  
8329 or cannot arrange for safe and appropriate care for the child;

8330 (g) (i) a relative or other adult custodian with whom the child is left by the parent or  
8331 guardian is unwilling or unable to provide care or support for the child;

8332 (ii) the whereabouts of the parent or guardian are unknown; and

8333 (iii) reasonable efforts to locate the parent or guardian are unsuccessful;

8334 (h) subject to Subsection 80-1-102(58)(b) and Sections 80-3-109 and 80-3-304, the  
8335 child is in immediate need of medical care;

8336 (i) (i) a parent's or guardian's actions, omissions, or habitual action create an  
8337 environment that poses a serious risk to the child's health or safety for which immediate  
8338 remedial or preventive action is necessary; or

8339 (ii) a parent's or guardian's action in leaving a child unattended would reasonably pose  
8340 a threat to the child's health or safety;

8341 (j) the child or another child residing in the same household has been neglected;

8342 (k) the child's natural parent:

8343 (i) intentionally, knowingly, or recklessly causes the death of another parent of the  
8344 child;

8345 (ii) is identified by a law enforcement agency as the primary suspect in an investigation  
8346 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

8347 (iii) is being prosecuted for or has been convicted of intentionally, knowingly, or  
8348 recklessly causing the death of another parent of the child;

8349 (l) an infant is an abandoned infant, as defined in Section 80-4-203;

8350 (m) (i) the parent or guardian, or an adult residing in the same household as the parent  
8351 or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab  
8352 Act; and

8353 (ii) any clandestine laboratory operation was located in the residence or on the property  
8354 where the child resided; or

8355 (n) the child's welfare is otherwise endangered.

8356 (3) (a) For purposes of Subsection (2)(a), if a child has previously been adjudicated as  
8357 abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency  
8358 occurs involving the same substantiated abuser or under similar circumstance as the previous  
8359 abuse, that fact is prima facie evidence that the child cannot safely remain in the custody of the  
8360 child's parent.

8361 (b) For purposes of Subsection (2)(c):

8362 (i) another child residing in the same household may not be removed from the home  
8363 unless that child is considered to be at substantial risk of being physically abused, sexually  
8364 abused, or sexually exploited as described in Subsection (2)(c) or Subsection (3)(b)(ii); and

8365 (ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse,  
8366 or sexual exploitation by an individual known to the parent has occurred, and there is evidence  
8367 that the parent or guardian failed to protect the child, after having received the notice, by  
8368 allowing the child to be in the physical presence of the alleged abuser, that fact is prima facie  
8369 evidence that the child is at substantial risk of being physically abused, sexually abused, or  
8370 sexually exploited.

8371 (4) (a) For purposes of Subsection (2), if the division files an abuse, neglect, or  
8372 dependency petition, the juvenile court shall consider the division's safety and risk assessments  
8373 described in Section [80-2-403](#) to determine whether a child should be removed from the  
8374 custody of the child's parent or guardian or should otherwise be taken into protective custody.

8375 (b) The division shall make a diligent effort to provide the safety and risk assessments  
8376 described in Section [80-2-403](#) to the juvenile court, guardian ad litem, and counsel for the  
8377 parent or guardian, as soon as practicable before the shelter hearing described in Section  
8378 [80-3-301](#).

8379 (5) In the absence of one of the factors described in Subsection (2), a juvenile court  
8380 may not remove a child from the parent's or guardian's custody on the basis of:

8381 (a) educational neglect, truancy, or failure to comply with a court order to attend  
8382 school;

8383 (b) mental illness or poverty of the parent or guardian;

8384 (c) disability of the parent or guardian, as defined in Section [57-21-2](#); or

8385 (d) the possession or use, in accordance with [~~Title 26, Chapter 61a, Utah Medical~~  
8386 ~~Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, of  
8387 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a  
8388 medical cannabis device, as those terms are defined in Section [~~26-61a-102~~] [26B-4-201](#).

8389 (6) A child removed from the custody of the child's parent or guardian under this  
8390 section may not be placed or kept in detention, unless the child may be admitted to detention  
8391 under Chapter 6, Part 2, Custody and Detention.

8392 (7) This section does not preclude removal of a child from the child's home without a  
8393 warrant or court order under Section [80-2a-202](#).

8394 (8) (a) Except as provided in Subsection (8)(b), a juvenile court and the division may  
8395 not remove a child from the custody of the child's parent or guardian on the sole or primary

8396 basis that the parent or guardian refuses to consent to:

- 8397 (i) the administration of a psychotropic medication to a child;
- 8398 (ii) a psychiatric, psychological, or behavioral treatment for a child; or
- 8399 (iii) a psychiatric or behavioral health evaluation of a child.

8400 (b) Notwithstanding Subsection (8)(a), a juvenile court or the division may remove a  
8401 child under conditions that would otherwise be prohibited under Subsection (8)(a) if failure to  
8402 take an action described under Subsection (8)(a) would present a serious, imminent risk to the  
8403 child's physical safety or the physical safety of others.

8404 Section 141. Section **80-3-302** is amended to read:

8405 **80-3-302. Shelter hearing -- Placement of a child.**

8406 (1) As used in this section:

8407 (a) "Natural parent," notwithstanding Section [80-1-102](#), means:

- 8408 (i) a biological or adoptive mother of the child;
- 8409 (ii) an adoptive father of the child; or
- 8410 (iii) a biological father of the child who:

8411 (A) was married to the child's biological mother at the time the child was conceived or  
8412 born; or

8413 (B) has strictly complied with Sections [78B-6-120](#) through [78B-6-122](#), before removal  
8414 of the child or voluntary surrender of the child by the custodial parent.

8415 (b) "Natural parent" includes the individuals described in Subsection (1)(a) regardless  
8416 of whether the child has been or will be placed with adoptive parents or whether adoption has  
8417 been or will be considered as a long-term goal for the child.

8418 (2) (a) At the shelter hearing, if the juvenile court orders that a child be removed from  
8419 the custody of the child's parent in accordance with Section [80-3-301](#), the juvenile court shall  
8420 first determine whether there is another natural parent with whom the child was not residing at  
8421 the time the events or conditions that brought the child within the juvenile court's jurisdiction  
8422 occurred, who desires to assume custody of the child.

8423 (b) Subject to Subsection (7), if another natural parent requests custody under  
8424 Subsection (2)(a), the juvenile court shall place the child with that parent unless the juvenile  
8425 court finds that the placement would be unsafe or otherwise detrimental to the child.

8426 (c) The juvenile court:



- 8427 (i) shall make a specific finding regarding the fitness of the parent described in  
8428 Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement;
- 8429 (ii) shall, at a minimum, order the division to visit the parent's home, comply with the  
8430 criminal background check provisions described in Section 80-3-305, and check the  
8431 Management Information System for any previous reports of abuse or neglect received by the  
8432 division regarding the parent at issue;
- 8433 (iii) may order the division to conduct any further investigation regarding the safety  
8434 and appropriateness of the placement; and
- 8435 (iv) may place the child in the temporary custody of the division, pending the juvenile  
8436 court's determination regarding the placement.
- 8437 (d) The division shall report the division's findings from an investigation under  
8438 Subsection (2)(c), regarding the child in writing to the juvenile court.
- 8439 (3) If the juvenile court orders placement with a parent under Subsection (2):
- 8440 (a) the child and the parent are under the continuing jurisdiction of the juvenile court;
- 8441 (b) the juvenile court may order:
- 8442 (i) that the parent take custody subject to the supervision of the juvenile court; and
- 8443 (ii) that services be provided to the parent from whose custody the child was removed,  
8444 the parent who has assumed custody, or both; and
- 8445 (c) the juvenile court shall order reasonable parent-time with the parent from whose  
8446 custody the child was removed, unless parent-time is not in the best interest of the child.
- 8447 (4) The juvenile court shall periodically review an order described in Subsection (3) to  
8448 determine whether:
- 8449 (a) placement with the parent continues to be in the child's best interest;
- 8450 (b) the child should be returned to the original custodial parent;
- 8451 (c) the child should be placed with a relative under Subsections (6) through (9); or
- 8452 (d) the child should be placed in the temporary custody of the division.
- 8453 (5) (a) Legal custody of the child is not affected by an order entered under Subsection  
8454 (2) or (3).
- 8455 (b) To affect a previous court order regarding legal custody, the party shall petition the  
8456 court for modification of legal custody.
- 8457 (6) Subject to Subsection (7), if, at the time of the shelter hearing, a child is removed

8458 from the custody of the child's parent and is not placed in the custody of the child's other  
8459 parent, the juvenile court:

8460 (a) shall, at that time, determine whether there is a relative or a friend who is able and  
8461 willing to care for the child, which may include asking a child, who is of sufficient maturity to  
8462 articulate the child's wishes in relation to a placement, if there is a relative or friend with whom  
8463 the child would prefer to reside;

8464 (b) may order the division to conduct a reasonable search to determine whether there  
8465 are relatives or friends who are willing and appropriate, in accordance with the requirements of  
8466 this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective  
8467 Custody of a Child, for placement of the child;

8468 (c) shall order the parents to cooperate with the division, within five working days, to  
8469 provide information regarding relatives or friends who may be able and willing to care for the  
8470 child; and

8471 (d) may order that the child be placed in the temporary custody of the division pending  
8472 the determination under Subsection (6)(a).

8473 (7) (a) (i) Subject to Subsections (7)(b) through (d) and if the provisions of this section  
8474 are satisfied, the division and the juvenile court shall give preferential consideration to a  
8475 relative's or a friend's request for placement of the child, if the placement is in the best interest  
8476 of the child.

8477 (ii) For purposes of the preferential consideration under Subsection (7)(a)(i), there is a  
8478 rebuttable presumption that placement of the child with a relative is in the best interest of the  
8479 child.

8480 (b) (i) The preferential consideration that the juvenile court or division initially grants a  
8481 relative or friend under Subsection (7)(a)(i) expires 120 days after the day on which the shelter  
8482 hearing occurs.

8483 (ii) After the day on which the time period described in Subsection (7)(b)(i) expires,  
8484 the division or the juvenile court may not grant preferential consideration to a relative or friend,  
8485 who has not obtained custody or asserted an interest in the child.

8486 (c) (i) The preferential consideration that the juvenile court initially grants a natural  
8487 parent under Subsection (2) is limited after 120 days after the day on which the shelter hearing  
8488 occurs.

8489 (ii) After the time period described in Subsection (7)(c)(i), the juvenile court shall base  
8490 the juvenile court's custody decision on the best interest of the child.

8491 (d) Before the day on which the time period described in Subsection (7)(c)(i) expires,  
8492 the following order of preference shall be applied when determining the individual with whom  
8493 a child will be placed, provided that the individual is willing and able to care for the child:

8494 (i) a noncustodial parent of the child;

8495 (ii) a relative of the child;

8496 (iii) subject to Subsection (7)(e), a friend if the friend is a licensed foster parent; and

8497 (iv) other placements that are consistent with the requirements of law.

8498 (e) In determining whether a friend is a willing, able, and appropriate placement for a  
8499 child, the juvenile court or the division:

8500 (i) subject to Subsections (7)(e)(ii) through (iv), shall consider the child's preferences  
8501 or level of comfort with the friend;

8502 (ii) is required to consider no more than one friend designated by each parent of the  
8503 child and one friend designated by the child if the child is of sufficient maturity to articulate the  
8504 child's wishes in relation to a placement;

8505 (iii) may limit the number of designated friends to two, one of whom shall be a friend  
8506 designated by the child if the child is of sufficient maturity to articulate the child's wishes in  
8507 relation to a placement; and

8508 (iv) shall give preference to a friend designated by the child if:

8509 (A) the child is of sufficient maturity to articulate the child's wishes; and

8510 (B) the basis for removing the child under Section 80-3-301 is sexual abuse of the  
8511 child.

8512 (f) (i) If a parent of the child or the child, if the child is of sufficient maturity to  
8513 articulate the child's wishes in relation to a placement, is not able to designate a friend who is a  
8514 licensed foster parent for placement of the child, but is able to identify a friend who is willing  
8515 to become licensed as a foster parent, the department shall fully cooperate to expedite the  
8516 licensing process for the friend.

8517 (ii) If the friend described in Subsection (7)(f)(i) becomes licensed as a foster parent  
8518 within the time frame described in Subsection (7)(b), the juvenile court shall determine  
8519 whether it is in the best interest of the child to place the child with the friend.

8520 (8) (a) If a relative or friend who is willing to cooperate with the child's permanency  
8521 goal is identified under Subsection (6)(a), the juvenile court:

8522 (i) shall make a specific finding regarding:

8523 (A) the fitness of that relative or friend as a placement for the child; and

8524 (B) the safety and appropriateness of placement with the relative or friend; and

8525 (ii) may not consider a request for guardianship or adoption of the child by an  
8526 individual who is not a relative of the child, or prevent the division from placing the child in  
8527 the custody of a relative of the child in accordance with this part, until after the day on which  
8528 the juvenile court makes the findings under Subsection (8)(a)(i).

8529 (b) In making the finding described in Subsection (8)(a), the juvenile court shall, at a  
8530 minimum, order the division to:

8531 (i) if the child may be placed with a relative, conduct a background check that includes:

8532 (A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification  
8533 background check of the relative;

8534 (B) a completed search, relating to the relative, of the Management Information  
8535 System; and

8536 (C) a background check that complies with the criminal background check provisions  
8537 described in Section 80-3-305, of each nonrelative of the child who resides in the household  
8538 where the child may be placed;

8539 (ii) if the child will be placed with a noncustodial parent, complete a background check  
8540 that includes:

8541 (A) the background check requirements applicable to an emergency placement with a  
8542 noncustodial parent that are described in Subsections 80-2a-301(4) and (6);

8543 (B) a completed search, relating to the noncustodial parent of the child, of the  
8544 Management Information System; and

8545 (C) a background check that complies with the criminal background check provisions  
8546 described in Section 80-3-305, of each nonrelative of the child who resides in the household  
8547 where the child may be placed;

8548 (iii) if the child may be placed with an individual other than a noncustodial parent or a  
8549 relative, conduct a criminal background check of the individual, and each adult that resides in  
8550 the household where the child may be placed, that complies with the criminal background

8551 check provisions described in Section 80-3-305;

8552 (iv) visit the relative's or friend's home;

8553 (v) check the Management Information System for any previous reports of abuse or

8554 neglect regarding the relative or friend at issue;

8555 (vi) report the division's findings in writing to the juvenile court; and

8556 (vii) provide sufficient information so that the juvenile court may determine whether:

8557 (A) the relative or friend has any history of abusive or neglectful behavior toward other

8558 children that may indicate or present a danger to this child;

8559 (B) the child is comfortable with the relative or friend;

8560 (C) the relative or friend recognizes the parent's history of abuse and is committed to

8561 protect the child;

8562 (D) the relative or friend is strong enough to resist inappropriate requests by the parent

8563 for access to the child, in accordance with court orders;

8564 (E) the relative or friend is committed to caring for the child as long as necessary; and

8565 (F) the relative or friend can provide a secure and stable environment for the child.

8566 (c) The division may determine to conduct, or the juvenile court may order the division

8567 to conduct, any further investigation regarding the safety and appropriateness of the placement

8568 described in Subsection (8)(a).

8569 (d) The division shall complete and file the division's assessment regarding placement

8570 with a relative or friend under Subsections (8)(a) and (b) as soon as practicable, in an effort to

8571 facilitate placement of the child with a relative or friend.

8572 (9) (a) The juvenile court may place a child described in Subsection (2)(a) in the

8573 temporary custody of the division, pending the division's investigation under Subsection (8),

8574 and the juvenile court's determination regarding the appropriateness of the placement.

8575 (b) The juvenile court shall ultimately base the juvenile court's determination regarding

8576 the appropriateness of a placement with a relative or friend on the best interest of the child.

8577 (10) If a juvenile court places a child described in Subsection (6) with the child's

8578 relative or friend:

8579 (a) the juvenile court shall:

8580 (i) order the relative or friend take custody, subject to the continuing supervision of the

8581 juvenile court;

8582 (ii) provide for reasonable parent-time with the parent or parents from whose custody  
8583 the child is removed, unless parent-time is not in the best interest of the child; and

8584 (iii) conduct a periodic review no less often than every six months, to determine  
8585 whether:

8586 (A) placement with a relative or friend continues to be in the child's best interest;

8587 (B) the child should be returned home; or

8588 (C) the child should be placed in the custody of the division;

8589 (b) the juvenile court may enter an order:

8590 (i) requiring the division to provide necessary services to the child and the child's  
8591 relative or friend, including the monitoring of the child's safety and well-being; or

8592 (ii) that the juvenile court considers necessary for the protection and best interest of the  
8593 child; and

8594 (c) the child and the relative or friend in whose custody the child is placed are under  
8595 the continuing jurisdiction of the juvenile court;

8596 (11) No later than 12 months after the day on which the child is removed from the  
8597 home, the juvenile court shall schedule a hearing for the purpose of entering a permanent order  
8598 in accordance with the best interest of the child.

8599 (12) The time limitations described in Section [80-3-406](#), with regard to reunification  
8600 efforts, apply to a child placed with a previously noncustodial parent under Subsection (2) or  
8601 with a relative or friend under Subsection (6).

8602 (13) (a) If the juvenile court awards temporary custody of a child to the division, and  
8603 the division places the child with a relative, the division shall:

8604 (i) conduct a criminal background check of the relative that complies with the criminal  
8605 background check provisions described in Section [80-3-305](#); and

8606 (ii) if the results of the criminal background check described in Subsection (13)(a)(i)  
8607 would prohibit the relative from having direct access to the child under Section [[62A-2-120](#)]  
8608 [26B-2-120](#), the division shall:

8609 (A) take the child into physical custody; and

8610 (B) within three days, excluding weekends and holidays, after the day on which the  
8611 child is taken into physical custody under Subsection (13)(a)(ii)(A), give written notice to the  
8612 juvenile court, and all parties to the proceedings, of the division's action.

8613 (b) Subsection (13)(a) does not prohibit the division from placing a child with a  
8614 relative, pending the results of the background check described in Subsection (13)(a) on the  
8615 relative.

8616 (14) If the juvenile court orders that a child be removed from the custody of the child's  
8617 parent and does not award custody and guardianship to another parent, relative, or friend under  
8618 this section, the juvenile court shall order that the child be placed in the temporary custody of  
8619 the division, to proceed to adjudication and disposition and to be provided with care and  
8620 services in accordance with this chapter, Chapter 2, Child Welfare Services, and Chapter 2a,  
8621 Removal and Protective Custody of a Child.

8622 (15) (a) If a child reenters the temporary custody or the custody of the division and is  
8623 placed in foster care, the division shall:

8624 (i) notify the child's former foster parents; and

8625 (ii) upon a determination of the former foster parents' willingness and ability to safely  
8626 and appropriately care for the child, give the former foster parents preference for placement of  
8627 the child.

8628 (b) If, after the shelter hearing, the child is placed with an individual who is not a  
8629 parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a  
8630 foster placement with a married couple, unless it is in the best interests of the child to place the  
8631 child with a single foster parent.

8632 (16) In determining the placement of a child, the juvenile court and the division may  
8633 not take into account, or discriminate against, the religion of an individual with whom the child  
8634 may be placed, unless the purpose of taking religion into account is to place the child with an  
8635 individual or family of the same religion as the child.

8636 (17) If the juvenile court's decision differs from a child's express wishes if the child is  
8637 of sufficient maturity to articulate the wishes in relation to the child's placement, the juvenile  
8638 court shall make findings explaining why the juvenile court's decision differs from the child's  
8639 wishes.

8640 (18) This section does not guarantee that an identified relative or friend will receive  
8641 custody of the child.

8642 Section 142. Section **80-3-305** is amended to read:

8643 **80-3-305. Criminal background checks necessary before out-of-home placement**

8644 **of a child.**

8645 (1) Subject to Subsection (3), upon ordering removal of a child from the custody of the  
8646 child's parent and placing that child in the temporary custody or custody of the division before  
8647 the division places a child in out-of-home care, the juvenile court shall require the completion  
8648 of a nonfingerprint-based background check by the Utah Bureau of Criminal Identification  
8649 regarding the proposed placement.

8650 (2) (a) Except as provided in Subsection (4), the division or the Office of Guardian Ad  
8651 Litem may request, or the juvenile court upon the juvenile court's own motion, may order, the  
8652 Department of Public Safety to conduct a complete Federal Bureau of Investigation criminal  
8653 background check through the national criminal history system (NCIC).

8654 (b) (i) Except as provided in Subsection (4), upon request by the division or the Office  
8655 of Guardian ad Litem, or upon the juvenile court's order, an individual subject to the  
8656 requirements of Subsection (1) shall submit fingerprints and shall be subject to an FBI  
8657 fingerprint background check.

8658 (ii) The child may be temporarily placed, pending the outcome of the background  
8659 check described in Subsection (2)(b)(i).

8660 (c) (i) Except as provided in Subsection (2)(c)(ii), the cost of the investigations  
8661 described in Subsection (2)(a) shall be borne by whoever is to receive placement of the child.

8662 (ii) The division may pay all or part of the cost of the investigations described in  
8663 Subsection (2)(a).

8664 (3) Except as provided in Subsection (5), a child who is in the protective custody,  
8665 temporary custody, or custody of the division may not be placed with a prospective foster  
8666 parent or a prospective adoptive parent, unless, before the child is placed with the prospective  
8667 foster parent or the prospective adoptive parent:

8668 (a) a fingerprint based FBI national criminal history records check is conducted on the  
8669 prospective foster parent or prospective adoptive parent and any other adult residing in the  
8670 household;

8671 (b) the department conducts a check of the abuse and neglect registry in each state  
8672 where the prospective foster parent or prospective adoptive parent resided in the five years  
8673 immediately before the day on which the prospective foster parent or prospective adoptive  
8674 parent applied to be a foster parent or adoptive parent, to determine whether the prospective



8675 foster parent or prospective adoptive parent is listed in the registry as having a substantiated or  
8676 supported finding of a severe type of abuse or neglect;

8677 (c) the department conducts a check of the abuse and neglect registry of each state  
8678 where each adult living in the home of the prospective foster parent or prospective adoptive  
8679 parent described in Subsection (3)(b) resided in the five years immediately before the day on  
8680 which the prospective foster parent or prospective adoptive parent applied to be a foster parent  
8681 or adoptive parent, to determine whether the adult is listed in the registry as having a  
8682 substantiated or supported finding of a severe type of abuse or neglect; and

8683 (d) each individual required to undergo a background check described in this  
8684 Subsection (3) passes the background check, in accordance with the provisions of Section  
8685 ~~[62A-2-120]~~ [26B-2-120](#).

8686 (4) Subsections (2)(a) and (b) do not apply to a child who is placed with a noncustodial  
8687 parent or relative under Section [80-2a-301](#), [80-3-302](#), or [80-3-303](#), unless the juvenile court  
8688 finds that compliance with Subsection (2)(a) or (b) is necessary to ensure the safety of the  
8689 child.

8690 (5) The requirements under Subsection (3) do not apply to the extent that:

8691 (a) federal law or rule permits otherwise; or

8692 (b) the requirements would prohibit the division or a juvenile court from placing a  
8693 child with:

8694 (i) a noncustodial parent, under Section [80-2a-301](#), [80-3-302](#), or [80-3-303](#); or

8695 (ii) a relative, under Section [80-2a-301](#), [80-3-302](#), or [80-3-303](#), pending completion of  
8696 the background check described in Subsection (3).

8697 Section 143. Section **80-3-404** is amended to read:

8698 **80-3-404. Finding of severe child abuse or neglect -- Order delivered to division --**  
8699 **Court records.**

8700 (1) If an abuse, neglect, or dependency petition is filed with the juvenile court that  
8701 informs the juvenile court that the division has made a supported finding that an individual  
8702 committed a severe type of child abuse or neglect, the juvenile court shall:

8703 (a) make a finding of substantiated, unsubstantiated, or without merit;

8704 (b) include the finding described in Subsection (1)(a) in a written order; and

8705 (c) deliver a certified copy of the order described in Subsection (1)(b) to the division.

- 8706 (2) The juvenile court shall make the finding described in Subsection (1):
- 8707 (a) as part of the adjudication hearing;
- 8708 (b) at the conclusion of the adjudication hearing; or
- 8709 (c) as part of a court order entered under a written stipulation of the parties.
- 8710 (3) In accordance with Section [80-2-707](#), a proceeding for adjudication of a supported
- 8711 finding of a type of abuse or neglect that does not constitute a severe type of child abuse or
- 8712 neglect may be joined in the juvenile court with an adjudication of a severe type of child abuse
- 8713 or neglect.
- 8714 (4) (a) The juvenile court shall make records of the juvenile court's findings under
- 8715 Subsection (1) available only to an individual with statutory authority to access the Licensing
- 8716 Information System for the purposes of licensing under Sections [~~26-39-402, 26B-1-211, and~~
- 8717 ~~62A-2-120~~] [26B-1-211](#), [26B-2-120](#), and [26B-2-404](#), or for the purposes described in Sections
- 8718 [~~26-8a-310, 62A-2-121, or Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access~~]
- 8719 [26B-2-121](#), [26B-2-238](#) through [26B-2-241](#), or [26B-4-124](#).
- 8720 (b) An appellate court shall make records of an appeal from the juvenile court's
- 8721 decision under Subsection (1) available only to an individual with statutory authority to access
- 8722 the Licensing Information System for the purposes described in Subsection (4)(a).
- 8723 Section 144. Section **80-3-405** is amended to read:
- 8724 **80-3-405. Dispositions after adjudication.**
- 8725 (1) (a) Upon adjudication under Subsection [80-3-402](#)(1), the juvenile court may make
- 8726 the dispositions described in Subsection (2) at the dispositional hearing.
- 8727 (2) (a) (i) The juvenile court may vest custody of an abused, neglected, or dependent
- 8728 minor in the division or any other appropriate person, with or without court-specified child
- 8729 welfare services, in accordance with the requirements and procedures of this chapter.
- 8730 (ii) When placing a minor in the custody of the division or any other appropriate
- 8731 person, the juvenile court:
- 8732 (A) shall give primary consideration to the welfare of the minor;
- 8733 (B) shall give due consideration to the rights of the parent or parents concerning the
- 8734 minor; and
- 8735 (C) when practicable, may take into consideration the religious preferences of the
- 8736 minor and of the minor's parents or guardian.

8737 (b) (i) The juvenile court may appoint a guardian for the minor if it appears necessary  
8738 in the interest of the minor.

8739 (ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private  
8740 institution or agency, but not a nonsecure residential placement provider, in which legal  
8741 custody of the minor is vested.

8742 (iii) When placing a minor under the guardianship of an individual or of a private  
8743 agency or institution, the juvenile court:

8744 (A) shall give primary consideration to the welfare of the minor; and

8745 (B) when practicable, may take into consideration the religious preferences of the  
8746 minor and of the minor's parents or guardian.

8747 (c) The juvenile court may order:

8748 (i) protective supervision;

8749 (ii) family preservation;

8750 (iii) sibling visitation; or

8751 (iv) other services.

8752 (d) (i) If a minor has been placed with an individual or relative as a result of an  
8753 adjudication under this chapter, the juvenile court may enter an order of permanent legal  
8754 custody and guardianship with the individual or relative of the minor.

8755 (ii) If a juvenile court enters an order of permanent custody and guardianship with an  
8756 individual or relative of a minor under Subsection (2)(d)(i), the juvenile court may, in  
8757 accordance with Section [78A-6-356](#), enter an order for child support on behalf of the minor  
8758 against the natural parents of the minor.

8759 (iii) An order under this Subsection (2)(d):

8760 (A) shall remain in effect until the minor is 18 years old;

8761 (B) is not subject to review under Section [78A-6-358](#); and

8762 (C) may be modified by petition or motion as provided in Section [78A-6-357](#).

8763 (e) The juvenile court may order a child be committed to the physical custody, as  
8764 defined in Section [~~62A-15-701~~] [26B-5-401](#), of a local mental health authority, in accordance  
8765 with the procedures and requirements of [~~Title 62A, Chapter 15, Part 7, Commitment of~~  
8766 ~~Persons Under Age 18 to Division of Substance Abuse and Mental Health~~] [Title 26B, Chapter](#)  
8767 [5, Part 4, Commitment of Persons Under Age 18](#).

8768 (f) (i) If the child has an intellectual disability, the juvenile court may make an order  
8769 committing a minor to the Utah State Developmental Center in accordance with [~~Title 62A,~~  
8770 ~~Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual~~  
8771 ~~Disability]~~ Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People  
8772 with an Intellectual Disability.

8773 (ii) The juvenile court shall follow the procedure applicable in the district court with  
8774 respect to judicial commitments to the Utah State Developmental Center when ordering a  
8775 commitment under Subsection (2)(f)(i).

8776 (g) (i) Subject to Subsection 80-1-102(58)(b) and Section 80-3-304, the juvenile court  
8777 may order that a minor:

8778 (A) be examined or treated by a mental health therapist, as described in Section  
8779 80-3-109; or

8780 (B) receive other special care.

8781 (ii) For purposes of receiving the examination, treatment, or care described in  
8782 Subsection (2)(g)(i), the juvenile court may place the minor in a hospital or other suitable  
8783 facility that is not secure care or secure detention.

8784 (iii) In determining whether to order the examination, treatment, or care described in  
8785 Subsection (2)(g)(i), the juvenile court shall consider:

8786 (A) the desires of the minor;

8787 (B) the desires of the parent or guardian of the minor if the minor is younger than 18  
8788 years old; and

8789 (C) whether the potential benefits of the examination, treatment, or care outweigh the  
8790 potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain  
8791 function impairment, or emotional or physical harm resulting from the compulsory nature of  
8792 the examination, treatment, or care.

8793 (h) The juvenile court may make other reasonable orders for the best interest of the  
8794 minor.

8795 (3) Upon an adjudication under this chapter, the juvenile court may not:

8796 (a) commit a minor solely on the ground of abuse, neglect, or dependency to the  
8797 Division of Juvenile Justice and Youth Services;

8798 (b) assume the function of developing foster home services; or

8799 (c) vest legal custody of an abused, neglected, or dependent minor in the division to  
8800 primarily address the minor's ungovernable or other behavior, mental health, or disability,  
8801 unless the division:

8802 (i) engages other relevant divisions within the department that are conducting an  
8803 assessment of the minor and the minor's family's needs;

8804 (ii) based on the assessment described in Subsection (3)(c)(i), determines that vesting  
8805 custody of the minor in the division is the least restrictive intervention for the minor that meets  
8806 the minor's needs; and

8807 (iii) consents to legal custody of the minor being vested in the division.

8808 (4) The juvenile court may combine the dispositions listed in Subsection (2) if  
8809 combining the dispositions is permissible and the dispositions are compatible.

8810 Section 145. Section **80-3-504** is amended to read:

8811 **80-3-504. Petition for substantiation -- Court findings -- Expedited hearing --**  
8812 **Records of an appeal.**

8813 (1) The division or an individual may file a petition for substantiation in accordance  
8814 with Section [80-2-1004](#).

8815 (2) If the division decides to file a petition for substantiation under Section [80-2-1004](#),  
8816 the division shall file the petition no more than 14 days after the day on which the division  
8817 makes the decision.

8818 (3) At the conclusion of the hearing on a petition for substantiation, the juvenile court  
8819 shall:

8820 (a) make a finding of substantiated, unsubstantiated, or without merit;

8821 (b) include the finding in a written order; and

8822 (c) deliver a certified copy of the order to the division.

8823 (4) If an individual whose name is listed on the Licensing Information System before  
8824 May 6, 2002, files a petition for substantiation under Section [80-2-1004](#) during the time that an  
8825 alleged perpetrator's application for clearance to work with children or vulnerable adults is  
8826 pending, the juvenile court shall:

8827 (a) hear the matter on an expedited basis; and

8828 (b) enter a final decision no later than 60 days after the day on which the petition for  
8829 substantiation is filed.

8830 (5) An appellate court shall make a record of an appeal from the juvenile court's  
8831 decision under Subsection (3) available only to an individual with statutory authority to access  
8832 the Licensing Information System for the purposes of licensing under Sections [~~26-39-402;~~  
8833 ~~62A-1-118, and 62A-2-120;~~] 26B-1-211, 26B-2-120, and 26B-2-404, or for the purposes  
8834 described in Sections [~~26-8a-310, 62A-2-121, or Title 26, Chapter 21, Part 2, Clearance for~~  
8835 ~~Direct Patient Access~~] 26B-2-121, 26B-2-238 through 26B-2-241, or 26B-4-124.

8836 Section 146. Section **80-4-109** is amended to read:

8837 **80-4-109. Consideration of cannabis during proceedings.**

8838 (1) As used in this section:

8839 (a) "Cannabis" means the same as that term is defined in Section [~~26-61a-102]~~

8840 26B-4-201.

8841 (b) "Cannabis product" means the same as that term is defined in Section [~~26-61a-102]~~

8842 26B-4-201.

8843 (c) (i) "Chronic" means repeated or patterned.

8844 (ii) "Chronic" does not mean an isolated incident.

8845 (d) "Directions of use" means the same as that term is defined in Section [~~26-61a-102]~~

8846 26B-4-201.

8847 (e) "Dosing guidelines" means the same as that term is defined in Section [~~26-61a-102]~~

8848 26B-4-201.

8849 (f) "Medical cannabis" means the same as that term is defined in Section [~~26-61a-102]~~

8850 26B-4-201.

8851 (g) "Medical cannabis cardholder" means the same as that term is defined in Section

8852 [~~26-61a-102]~~ 26B-4-201.

8853 (h) "Qualified medical provider" means the same as that term is defined in Section

8854 [~~26-61a-102]~~ 26B-4-201.

8855 (2) In a proceeding under this chapter in which the juvenile court makes a finding,  
8856 determination, or otherwise considers an individual's possession or use of medical cannabis, a  
8857 cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the  
8858 individual's possession or use any differently than the lawful possession or use of any  
8859 prescribed controlled substance if:

8860 (a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis

8861 Production Establishments;

8862 (b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

8863 (c) (i) the individual's possession or use complies with [~~Title 26, Chapter 61a, Utah~~

8864 ~~Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical

8865 Cannabis; and

8866 (ii) the individual reasonably complies with the directions of use and dosing guidelines

8867 determined by the individual's qualified medical provider or through a consultation described

8868 in Subsection [~~26-61a-502~~] 26B-4-230(4) or (5).

8869 (3) In a proceeding under this chapter, a parent's or guardian's use of cannabis or a  
8870 cannabis product is not abuse or neglect of a child unless there is evidence showing that:

8871 (a) the child is harmed because of the child's inhalation or ingestion of cannabis, or  
8872 because of cannabis being introduced to the child's body in another manner; or

8873 (b) the child is at an unreasonable risk of harm because of chronic inhalation or  
8874 ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

8875 (4) Unless there is harm or an unreasonable risk of harm to the child as described in  
8876 Subsection (3), a parent's or guardian's use of medical cannabis or a cannabis product is not  
8877 contrary to the best interests of a child if:

8878 (a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's  
8879 possession or use complies with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B,  
8880 Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and there is no evidence that  
8881 the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of  
8882 use and dosing guidelines determined by the parent's or guardian's qualified medical provider  
8883 or through a consultation described in Subsection [~~26-61a-502~~] 26B-4-230(4) or (5); or

8884 (b) before January 1, 2021, the parent's or guardian's possession or use complies with  
8885 Subsection 58-37-3.7(2) or (3).

8886 (5) Subsection (3) does not prohibit a finding of abuse or neglect of a child and  
8887 Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis  
8888 or a cannabis product is contrary to the best interests of a child, if there is evidence showing a  
8889 nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior  
8890 that would separately constitute abuse or neglect of the child.

8891 Section 147. Section **80-4-302** is amended to read:

8892 **80-4-302. Evidence of grounds for termination.**

8893 (1) In determining whether a parent or parents have abandoned a child, it is prima facie  
8894 evidence of abandonment that the parent or parents:

8895 (a) although having legal custody of the child, have surrendered physical custody of the  
8896 child, and for a period of six months following the surrender have not manifested to the child  
8897 or to the person having the physical custody of the child a firm intention to resume physical  
8898 custody or to make arrangements for the care of the child;

8899 (b) have failed to communicate with the child by mail, telephone, or otherwise for six  
8900 months;

8901 (c) failed to have shown the normal interest of a natural parent, without just cause; or

8902 (d) have abandoned an infant, as described in Section 80-4-203.

8903 (2) In determining whether a parent or parents are unfit or have neglected a child the  
8904 juvenile court shall consider:

8905 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the  
8906 parent unable to care for the immediate and continuing physical or emotional needs of the child  
8907 for extended periods of time;

8908 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive  
8909 nature;

8910 (c) habitual or excessive use of intoxicating liquors, controlled substances, or  
8911 dangerous drugs that render the parent unable to care for the child;

8912 (d) repeated or continuous failure to provide the child with adequate food, clothing,  
8913 shelter, education, or other care necessary for the child's physical, mental, and emotional health  
8914 and development by a parent or parents who are capable of providing that care;

8915 (e) whether the parent is incarcerated as a result of conviction of a felony, and the  
8916 sentence is of such length that the child will be deprived of a normal home for more than one  
8917 year;

8918 (f) a history of violent behavior;

8919 (g) whether the parent has intentionally exposed the child to pornography or material  
8920 harmful to a minor, as defined in Section 76-10-1201; or

8921 (h) any other circumstance, conduct, or condition that the court considers relevant in  
8922 the determination of whether a parent or parents are unfit or have neglected the child.



8923 (3) Notwithstanding Subsection (2)(c), the juvenile court may not discriminate against  
8924 a parent because of or otherwise consider the parent's lawful possession or consumption of  
8925 cannabis in a medicinal dosage form, a cannabis product, as those terms are defined in Section  
8926 [~~26-61a-102~~] 26B-4-201 or a medical cannabis device, in accordance with [~~Title 26, Chapter~~  
8927 ~~61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and  
8928 Medical Cannabis.

8929 (4) A parent who, legitimately practicing the parent's religious beliefs, does not provide  
8930 specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

8931 (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or  
8932 unfit because of a health care decision made for a child by the child's parent unless the state or  
8933 other party to the proceeding shows, by clear and convincing evidence, that the health care  
8934 decision is not reasonable and informed.

8935 (b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to  
8936 obtain a second health care opinion.

8937 (6) If a child has been placed in the custody of the division and the parent or parents  
8938 fail to comply substantially with the terms and conditions of a plan within six months after the  
8939 date on which the child was placed or the plan was commenced, whichever occurs later, that  
8940 failure to comply is evidence of failure of parental adjustment.

8941 (7) The following circumstances are prima facie evidence of unfitness:

8942 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any  
8943 child, due to known or substantiated abuse or neglect by the parent or parents;

8944 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to  
8945 indicate the unfitness of the parent to provide adequate care to the extent necessary for the  
8946 child's physical, mental, or emotional health and development;

8947 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement  
8948 of the child;

8949 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to  
8950 commit murder or manslaughter of a child or child abuse homicide; or

8951 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent  
8952 of the child, without legal justification.

8953 Section 148. Section **80-4-501** is amended to read:

8954 **80-4-501. Definitions.**

8955 As used in this part:

8956 (1) "Hospital" means a general acute hospital, as that term is defined in Section  
8957 ~~[26-21-2]~~ [26B-2-201](#), that is:

8958 (a) equipped with an emergency room;

8959 (b) open 24 hours a day, seven days a week; and

8960 (c) employs full-time health care professionals who have emergency medical services  
8961 training.

8962 (2) "Newborn child" means a child who is approximately 30 days old or younger, as  
8963 determined within a reasonable degree of medical certainty.

8964 Section 149. Section **80-6-402** is amended to read:

8965 **80-6-402. Procedure -- Standard.**

8966 (1) When a written motion is filed in accordance with Section [80-6-401](#) raising the  
8967 issue of a minor's competency to proceed, or when the juvenile court raises the issue of a  
8968 minor's competency to proceed, the juvenile court shall stay all proceedings under this chapter .

8969 (2) (a) If a motion for inquiry is opposed by either party, the juvenile court shall,  
8970 before granting or denying the motion, hold a limited hearing solely for the purpose of  
8971 determining the sufficiency of the motion.

8972 (b) If the juvenile court finds that the allegations of incompetency raise a bona fide  
8973 doubt as to the minor's competency to proceed, the juvenile court shall:

8974 (i) enter an order for an evaluation of the minor's competency to proceed; and

8975 (ii) set a date for a hearing on the issue of the minor's competency.

8976 (3) After the granting of a motion, and before a full competency hearing, the juvenile  
8977 court may order the department to evaluate the minor and to report to the juvenile court  
8978 concerning the minor's mental condition.

8979 (4) The minor shall be evaluated by a forensic evaluator who:

8980 (a) has experience in juvenile forensic evaluations and juvenile brain development;

8981 (b) if it becomes apparent that the minor is not competent due to an intellectual  
8982 disability or related condition, has experience in intellectual disability or related conditions;  
8983 and

8984 (c) is not involved in the current treatment of the minor.

8985 (5) The petitioner or other party, as directed by the juvenile court, shall provide all  
8986 information and materials relevant to a determination of the minor's competency to the  
8987 department within seven days of the juvenile court's order, including:

- 8988 (a) the motion;
- 8989 (b) the arrest or incident reports pertaining to the charged offense;
- 8990 (c) the minor's known delinquency history information;
- 8991 (d) the minor's probation record relevant to competency;
- 8992 (e) known prior mental health evaluations and treatments; and
- 8993 (f) consistent with 20 U.S.C. Sec. 1232g (b)(1)(E)(ii)(I), records pertaining to the  
8994 minor's education.

8995 (6) (a) The minor's parent or guardian, the prosecuting attorney, the defense attorney,  
8996 and the attorney guardian ad litem, shall cooperate, by executing releases of information when  
8997 necessary, in providing the relevant information and materials to the forensic evaluator,  
8998 including:

- 8999 (i) medical records;
- 9000 (ii) prior mental evaluations; or
- 9001 (iii) records of diagnosis or treatment of substance abuse disorders.

9002 (b) The minor shall cooperate, by executing a release of information when necessary,  
9003 in providing the relevant information and materials to the forensic evaluator regarding records  
9004 of diagnosis or treatment of a substance abuse disorder.

9005 (7) (a) In conducting the evaluation and in the report determining if a minor is  
9006 competent to proceed, the forensic evaluator shall inform the juvenile court of the forensic  
9007 evaluator's opinion whether:

- 9008 (i) the minor has a present ability to consult with counsel with a reasonable degree of  
9009 rational understanding; and
- 9010 (ii) the minor has a rational as well as factual understanding of the proceedings.

9011 (b) In evaluating the minor, the forensic evaluator shall consider the minor's present  
9012 ability to:

- 9013 (i) understand the charges or allegations against the minor;
- 9014 (ii) communicate facts, events, and states of mind;
- 9015 (iii) understand the range of possible penalties associated with the allegations against

9016 the minor;

9017 (iv) engage in reasoned choice of legal strategies and options;

9018 (v) understand the adversarial nature of the proceedings against the minor;

9019 (vi) manifest behavior sufficient to allow the juvenile court to proceed;

9020 (vii) testify relevantly; and

9021 (viii) any other factor determined to be relevant to the forensic evaluator.

9022 (8) (a) The forensic evaluator shall provide an initial report to the juvenile court, the  
9023 prosecuting and defense attorneys, and the attorney guardian ad litem, if applicable, within 30  
9024 days of the receipt of the juvenile court's order.

9025 (b) If the forensic evaluator informs the juvenile court that additional time is needed,  
9026 the juvenile court may grant, taking into consideration the custody status of the minor, up to an  
9027 additional 15 days to provide the report to the juvenile court and counsel.

9028 (c) The forensic evaluator must provide the report within 45 days from the receipt of  
9029 the juvenile court's order unless, for good cause shown, the juvenile court authorizes an  
9030 additional period of time to complete the evaluation and provide the report.

9031 (d) The report shall inform the juvenile court of the forensic evaluator's opinion  
9032 concerning the minor's competency.

9033 (9) If the forensic evaluator's opinion is that the minor is not competent to proceed, the  
9034 report shall indicate:

9035 (a) the nature of the minor's:

9036 (i) mental illness;

9037 (ii) intellectual disability or related condition; or

9038 (iii) developmental immaturity;

9039 (b) the relationship of the minor's mental illness, intellectual disability, related  
9040 condition, or developmental immaturity to the minor's incompetence;

9041 (c) whether there is a substantial likelihood that the minor may attain competency in  
9042 the foreseeable future;

9043 (d) the amount of time estimated for the minor to achieve competency if the minor  
9044 undergoes competency attainment treatment, including medication;

9045 (e) the sources of information used by the forensic evaluator; and

9046 (f) the basis for clinical findings and opinions.

9047 (10) Regardless of whether a minor consents to a competency evaluation, any  
9048 statement made by the minor in the course of the competency evaluation, any testimony by the  
9049 forensic evaluator based upon any statement made by the minor in the competency evaluation,  
9050 and any other fruits of the statement made by the minor in the competency evaluation:

9051 (a) may not be admitted in evidence against the minor in a proceeding under this  
9052 chapter, except the statement may be admitted on an issue respecting the mental condition on  
9053 which the minor has introduced evidence; and

9054 (b) may be admitted where relevant to a determination of the minor's competency.

9055 (11) Before evaluating the minor for a competency evaluation, a forensic evaluator  
9056 shall specifically advise the minor, and the minor's parent or guardian if reasonably available,  
9057 of the limits of confidentiality as provided under Subsection (10).

9058 (12) When the report is received, the juvenile court shall set a date for a competency  
9059 hearing that shall be held in not less than five and not more than 15 days, unless the juvenile  
9060 court enlarges the time for good cause.

9061 (13) (a) A minor shall be presumed competent unless the juvenile court, by a  
9062 preponderance of the evidence, finds the minor not competent to proceed.

9063 (b) The burden of proof is upon the proponent of incompetency to proceed.

9064 (14) (a) Following the hearing, the juvenile court shall determine by a preponderance  
9065 of evidence whether the minor is:

9066 (i) competent to proceed;

9067 (ii) not competent to proceed with a substantial probability that the minor may attain  
9068 competency in the foreseeable future; or

9069 (iii) not competent to proceed without a substantial probability that the minor may  
9070 attain competency in the foreseeable future.

9071 (b) If the juvenile court enters a finding described in Subsection (14)(a)(i), the juvenile  
9072 court shall proceed with the proceedings in the minor's case.

9073 (c) If the juvenile court enters a finding described in Subsection (14)(a)(ii), the juvenile  
9074 court shall proceed in accordance with Section [80-6-403](#).

9075 (d) (i) If the juvenile court enters a finding described in Subsection (14)(a)(iii), the  
9076 juvenile court shall terminate the competency proceeding, dismiss the charges against the  
9077 minor without prejudice, and release the minor from any custody order related to the pending

9078 proceeding, unless the prosecutor informs the court that commitment proceedings will be  
9079 initiated in accordance with:

9080 (A) [~~Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for~~  
9081 ~~People with an Intellectual Disability~~] Title 26B, Chapter 6, Part 6, Admission to an  
9082 Intermediate Care Facility for People with an Intellectual Disability;

9083 (B) if the minor is 18 years old or older, [~~Title 62A, Chapter 15, Part 6, Utah State~~  
9084 ~~Hospital and Other Mental Health Facilities~~] Title 26B, Chapter 5, Part 3, Utah State Hospital  
9085 and Other Mental Health Facilities; or

9086 (C) if the minor is a child, [~~Title 62A, Chapter 15, Part 7, Commitment of Persons~~  
9087 ~~Under Age 18 to Division of Substance Abuse and Mental Health~~] Title 26B, Chapter 5, Part 4,  
9088 Commitment of Persons Under Age 18.

9089 (ii) The commitment proceedings described in Subsection (14)(d)(i) shall be initiated  
9090 within seven days after the day on which the juvenile court enters the order under Subsection  
9091 (14)(a), unless the court enlarges the time for good cause shown.

9092 (iii) The juvenile court may order the minor to remain in custody until the commitment  
9093 proceedings have been concluded.

9094 (15) If the juvenile court finds the minor not competent to proceed, the juvenile court's  
9095 order shall contain findings addressing each of the factors in Subsection (7)(b).

9096 Section 150. Section ~~80-6-403~~ is amended to read:

9097 **80-6-403. Disposition on finding of not competent to proceed -- Subsequent**  
9098 **hearings -- Notice to prosecuting attorneys.**

9099 (1) If the juvenile court determines that the minor is not competent to proceed, and  
9100 there is a substantial likelihood that the minor may attain competency in the foreseeable future,  
9101 the juvenile court shall notify the department of the finding and allow the department 30 days  
9102 to develop an attainment plan for the minor.

9103 (2) The attainment plan shall include:

9104 (a) any services or treatment the minor has been or is currently receiving that are  
9105 necessary to attain competency;

9106 (b) any additional services or treatment the minor may require to attain competency;

9107 (c) an assessment of the parent, custodian, or guardian's ability to access or provide any  
9108 recommended treatment or services;

9109 (d) any special conditions or supervision that may be necessary for the safety of the  
9110 minor or others during the attainment period; and

9111 (e) the likelihood that the minor will attain competency and the amount of time likely  
9112 required for the minor to attain competency.

9113 (3) The department shall provide the attainment plan to the juvenile court, the  
9114 prosecuting attorney, the defense attorney, and the attorney guardian ad litem at least three days  
9115 before the competency disposition hearing.

9116 (4) (a) During the attainment period, the minor shall remain in the least restrictive  
9117 appropriate setting.

9118 (b) A finding of not competent to proceed does not grant authority for a juvenile court  
9119 to place a minor in the custody of a division of the department, or create eligibility for services  
9120 from the Division of Services for People With Disabilities.

9121 (c) If the juvenile court orders the minor to be held in detention during the attainment  
9122 period, the juvenile court shall make the following findings on the record:

9123 (i) the placement is the least restrictive appropriate setting;

9124 (ii) the placement is in the best interest of the minor;

9125 (iii) the minor will have access to the services and treatment required by the attainment  
9126 plan in the placement; and

9127 (iv) the placement is necessary for the safety of the minor or others.

9128 (d) A juvenile court shall terminate an order of detention related to the pending  
9129 proceeding for a minor who is not competent to proceed in that matter if:

9130 (i) the most severe allegation against the minor if committed by an adult is a class B  
9131 misdemeanor;

9132 (ii) more than 60 days have passed after the day on which the juvenile court  
9133 adjudicated the minor not competent to proceed; and

9134 (iii) the minor has not attained competency.

9135 (5) (a) At any time that the minor becomes competent to proceed during the attainment  
9136 period, the department shall notify the juvenile court, the prosecuting attorney, the defense  
9137 attorney, and the attorney guardian ad litem.

9138 (b) The juvenile court shall hold a hearing with 15 business days of notice from the  
9139 department described in Subsection (5)(a).

9140 (6) (a) If at any time during the attainment period the juvenile court finds that there is  
9141 not a substantial probability that the minor will attain competency in the foreseeable future, the  
9142 juvenile court shall terminate the competency proceeding, dismiss the petition or information  
9143 without prejudice, and release the minor from any custody order related to the pending  
9144 proceeding, unless the prosecuting attorney or any other individual informs the juvenile court  
9145 that commitment proceedings will be initiated in accordance with:

9146 (i) [~~Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People~~  
9147 ~~with an Intellectual Disability~~] Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care  
9148 Facility for People with an Intellectual Disability;

9149 (ii) if the minor is 18 years old or older, [~~Title 62A, Chapter 15, Part 6, Utah State~~  
9150 ~~Hospital and Other Mental Health Facilities~~] Title 26B, Chapter 5, Part 3, Utah State Hospital  
9151 and Other Mental Health Facilities; or

9152 (iii) if the minor is a child, [~~Title 62A, Chapter 15, Part 7, Commitment of Persons~~  
9153 ~~Under Age 18 to Division of Substance Abuse and Mental Health~~] Title 26B, Chapter 5, Part 4,  
9154 Commitment of Persons Under Age 18.

9155 (b) The prosecuting attorney shall initiate the proceedings described in Subsection  
9156 (6)(a) within seven days after the juvenile court's order, unless the juvenile court enlarges the  
9157 time for good cause shown.

9158 (7) During the attainment period, the juvenile court may order a hearing or rehearing at  
9159 anytime on the juvenile court's own motion or upon recommendation of any interested party or  
9160 the department.

9161 (8) (a) Within three months of the juvenile court's approval of the attainment plan, the  
9162 department shall provide a report on the minor's progress towards competence.

9163 (b) The report described in Subsection (8)(a) shall address the minor's:

9164 (i) compliance with the attainment plan;

9165 (ii) progress towards competency based on the issues identified in the original  
9166 competency evaluation; and

9167 (iii) current mental illness, intellectual disability or related condition, or developmental  
9168 immaturity, and need for treatment, if any, and whether there is substantial likelihood of the  
9169 minor attaining competency within six months.

9170 (9) (a) Within 30 days of receipt of the report, the juvenile court shall hold a hearing to



9171 determine the minor's current status.

9172 (b) At the hearing, the burden of proving the minor is competent is on the proponent of  
9173 competency.

9174 (c) The juvenile court shall determine by a preponderance of the evidence whether the  
9175 minor is competent to proceed.

9176 (10) If the minor has not attained competency after the initial three month attainment  
9177 period but is showing reasonable progress towards attainment of competency, the juvenile  
9178 court may extend the attainment period up to an additional three months.

9179 (11) The department shall provide an updated juvenile competency evaluation at the  
9180 conclusion of the six month attainment period to advise the juvenile court on the minor's  
9181 current competency status.

9182 (12) If the minor does not attain competency within six months after the juvenile court  
9183 initially finds the minor not competent to proceed, the court shall terminate the competency  
9184 proceedings and dismiss the petition or information filed without prejudice, unless good cause  
9185 is shown that there is a substantial likelihood the minor will attain competency within one year  
9186 from the initial finding of not competent to proceed.

9187 (13) In the event a minor has an unauthorized leave lasting more than 24 hours, the  
9188 attainment period shall toll until the minor returns.

9189 (14) (a) Regardless of whether a minor consents to attainment, any statement made by  
9190 the minor in the course of attainment, any testimony by the forensic evaluator based upon any  
9191 statement made by the minor in the course of attainment, and any other fruits of a statement  
9192 made by the minor in the course of attainment:

9193 (i) may not be admitted in evidence against the minor in a proceeding under this  
9194 chapter, except the statement may be admitted on an issue respecting the mental condition on  
9195 which the minor has introduced evidence; and

9196 (ii) may be admitted where relevant to a determination of the minor's competency.

9197 (b) Before evaluating the minor during the attainment period, a forensic evaluator shall  
9198 specifically advise the minor, and the minor's parent or guardian if reasonably available, of the  
9199 limits of confidentiality provided in Subsection (14)(a).

9200 Section 151. Section **80-6-608** is amended to read:

9201 **80-6-608. When photographs, fingerprints, or HIV infection tests may be taken --**

9202 **Distribution -- DNA collection -- Reimbursement.**

- 9203 (1) The division shall take a photograph and fingerprints of a minor who is:
- 9204 (a) 14 years old or older at the time of the alleged commission of an offense that would
- 9205 be a felony if the minor were 18 years old or older; and
- 9206 (b) admitted to a detention facility for the alleged commission of the offense.
- 9207 (2) The juvenile court shall order a minor who is 14 years old or older at the time that
- 9208 the minor is alleged to have committed an offense described in Subsection (2)(a) or (b) to have
- 9209 the minor's fingerprints taken at a detention facility or a local law enforcement agency if the
- 9210 minor is:
- 9211 (a) adjudicated for an offense that would be a class A misdemeanor if the minor were
- 9212 18 years old or older; or
- 9213 (b) adjudicated for an offense that would be a felony if the minor were 18 years old or
- 9214 older and the minor was not admitted to a detention facility.
- 9215 (3) The juvenile court shall take a photograph of a minor who is:
- 9216 (a) 14 years old or older at the time the minor was alleged to have committed an
- 9217 offense that would be a felony or a class A misdemeanor if the minor were 18 years old or
- 9218 older; and
- 9219 (b) adjudicated for the offense described in Subsection (3)(a).
- 9220 (4) If a minor's fingerprints are taken under this section, the minor's fingerprints shall
- 9221 be forwarded to the Bureau of Criminal Identification and may be stored by electronic medium.
- 9222 (5) HIV testing shall be conducted on a minor who is taken into custody after having
- 9223 been adjudicated for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, upon
- 9224 the request of:
- 9225 (a) the victim;
- 9226 (b) the parent or guardian of a victim who is younger than 14 years old; or
- 9227 (c) the guardian of the alleged victim if the victim is a vulnerable adult as defined in
- 9228 Section [~~62A-3-301~~] [26B-6-201](#).
- 9229 (6) HIV testing shall be conducted on a minor against whom a petition has been filed
- 9230 or a pickup order has been issued for the commission of any offense under Title 76, Chapter 5,
- 9231 Part 4, Sexual Offenses:
- 9232 (a) upon the request of:

- 9233 (i) the victim;
- 9234 (ii) the parent or guardian of a victim who is younger than 14 years old; or
- 9235 (iii) the guardian of the alleged victim if the victim is a vulnerable adult as defined in
- 9236 Section ~~[62A-3-301]~~ 26B-6-201; and
- 9237 (b) in which:
- 9238 (i) the juvenile court has signed an accompanying arrest warrant, pickup order, or any
- 9239 other order based upon probable cause regarding the alleged offense; and
- 9240 (ii) the juvenile court has found probable cause to believe that the alleged victim has
- 9241 been exposed to HIV infection as a result of the alleged offense.
- 9242 (7) HIV tests, photographs, and fingerprints may not be taken of a child who is younger
- 9243 than 14 years old without the consent of the juvenile court.
- 9244 (8) (a) Photographs taken under this section may be distributed or disbursed to:
- 9245 (i) state and local law enforcement agencies;
- 9246 (ii) the judiciary; and
- 9247 (iii) the division.
- 9248 (b) Fingerprints may be distributed or disbursed to:
- 9249 (i) state and local law enforcement agencies;
- 9250 (ii) the judiciary;
- 9251 (iii) the division; and
- 9252 (iv) agencies participating in the Western Identification Network.
- 9253 (9) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction
- 9254 of the juvenile court as described in Subsection 53-10-403(3).
- 9255 (b) The DNA specimen shall be obtained, in accordance with Subsection 53-10-404(4),
- 9256 by:
- 9257 (i) designated employees of the juvenile court; or
- 9258 (ii) if the minor is committed to the division, designated employees of the division.
- 9259 (c) The responsible agency under Subsection (9)(b) shall ensure that an employee
- 9260 designated to collect the saliva DNA specimens receives appropriate training and that the
- 9261 specimens are obtained in accordance with accepted protocol.
- 9262 (d) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the
- 9263 DNA Specimen Restricted Account created in Section 53-10-407.

9264 (e) Payment of the reimbursement is second in priority to payments the minor is  
9265 ordered to make for restitution under Section 80-6-710 and for treatment ordered under Section  
9266 80-3-403.

9267 Section 152. Section 80-6-706 is amended to read:

9268 **80-6-706. Treatment -- Commitment to local mental health authority or Utah**  
9269 **State Developmental Center.**

9270 (1) If a minor is adjudicated under Section 80-6-701, the juvenile court may order:

9271 (a) a nonresidential, diagnostic assessment for the minor, including a risk assessment  
9272 for substance use disorder, mental health, psychological, or sexual behavior;

9273 (b) the minor to be examined or treated by a physician, surgeon, psychiatrist, or  
9274 psychologist; or

9275 (c) other care for the minor.

9276 (2) For purposes of receiving the examination, treatment, or care described in  
9277 Subsection (1), the juvenile court may place the minor in a hospital or other suitable facility  
9278 that is not secure care or secure detention.

9279 (3) In determining whether to order the examination, treatment, or care described in  
9280 Subsection (1), the juvenile court shall consider:

9281 (a) the desires of the minor;

9282 (b) if the minor is a child, the desires of the minor's parent or guardian; and

9283 (c) whether the potential benefits of the examination, treatment, or care outweigh the  
9284 potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain  
9285 function impairment, or emotional or physical harm resulting from the compulsory nature of  
9286 the examination, treatment, or care.

9287 (4) (a) If the juvenile court orders examination, treatment, or care for a child under  
9288 Subsection (1) and the child is committed to the division under Subsection 80-6-703(2), the  
9289 division shall:

9290 (i) take reasonable measures to notify the child's parent or guardian of any  
9291 non-emergency health treatment or care scheduled for the child;

9292 (ii) include the child's parent or guardian as fully as possible in making health care  
9293 decisions for the child; and

9294 (iii) defer to the child's parent's or guardian's reasonable and informed decisions

9295 regarding the child's health care to the extent that the child's health and well-being are not  
9296 unreasonably compromised by the parent's or guardian's decision.

9297 (b) The division shall notify the parent or guardian of a child within five business days  
9298 after a child committed to the division receives emergency health care or treatment.

9299 (c) The division shall use the least restrictive means to accomplish the care and  
9300 treatment of a child described under Subsection (1).

9301 (5) If a child is adjudicated for an offense under Section 80-6-701, the juvenile court  
9302 may commit the child to the physical custody, as defined in Section ~~[62A-15-701]~~ 26B-5-401,  
9303 of a local mental health authority in accordance with the procedures and requirements in [~~Title~~  
9304 ~~62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance~~  
9305 ~~Abuse and Mental Health]~~ Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age  
9306 18.

9307 (6) (a) If a minor is adjudicated for an offense under Section 80-6-701, and the minor  
9308 has an intellectual disability, the juvenile court may commit the minor to the Utah State  
9309 Developmental Center in accordance with [~~Title 62A, Chapter 5, Part 3, Admission to an~~  
9310 ~~Intermediate Care Facility for People with an Intellectual Disability]~~ Title 26B, Chapter 6, Part  
9311 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

9312 (b) The juvenile court shall follow the procedure applicable in the district courts with  
9313 respect to judicial commitments to the Utah State Developmental Center when ordering a  
9314 commitment under Subsection (6)(a).

9315 Section 153. Section **80-6-801** is amended to read:

9316 **80-6-801. Commitment to local mental health authority or Utah State**  
9317 **Developmental Center.**

9318 (1) If a child is committed by the juvenile court to the physical custody, as defined in  
9319 Section ~~[62A-15-701]~~ 26B-5-401, of a local mental health authority, or the local mental health  
9320 authority's designee, [~~Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to~~  
9321 ~~Division of Substance Abuse and Mental Health]~~ Title 26B, Chapter 5, Part 4, Commitment of  
9322 Persons Under Age 18, shall govern the commitment and release of the minor.

9323 (2) If a minor is committed to the Utah State Developmental Center, [~~Title 62A,~~  
9324 ~~Chapter 5, Services for People with Disabilities]~~ Title 26B, Chapter 6, Part 4, Division of  
9325 Services for People with Disabilities, shall govern the commitment and release of the minor.

9326 Section 154. **Coordinating S.B. 209 with H.B. 72 -- Renumbering and superseding**  
9327 **amendments.**

9328 If this S.B. 209 and H.B. 72, Medical Cannabis Governance Revisions, both pass and  
9329 become law, the Legislature intends that the Office of Legislative Research and General  
9330 Counsel prepare the Utah Code database for publication on July 1, 2023, by amending:

9331 (1) Subsection [78A-2-231\(2\)\(c\)\(ii\)](#) to read:

9332 "(ii) the individual reasonably complies with the directions of use and dosing  
9333 guidelines determined by the individual's recommending medical provider or through a  
9334 consultation described in Subsection [~~26-61a-502(4) or (5)~~] [26B-4-230\(5\)](#).";

9335 (2) Subsection [80-3-110\(2\)\(c\)\(ii\)](#) to read:

9336 "(ii) the individual reasonably complies with the directions of use and dosing  
9337 guidelines determined by the individual's recommending medical provider or through a  
9338 consultation described in Subsection [~~26-61a-502(4) or (5)~~] [26B-4-230\(5\)](#).";

9339 (3) Subsection [80-3-110\(4\)\(a\)](#) to read:

9340 "for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's  
9341 possession or use complies with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] [Title 26B,](#)  
9342 [Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis](#), and there is no evidence that  
9343 the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of  
9344 use and dosing guidelines determined by the parent's or guardian's recommending medical  
9345 provider or through a consultation described in Subsection [~~26-61a-502(4) or (5)~~  
9346 [26B-4-230\(5\)](#) ; or";

9347 (4) Subsection [80-4-109\(2\)\(c\)\(ii\)](#) to read:

9348 "(ii) the individual reasonably complies with the directions of use and dosing guidelines  
9349 determined by the individual's qualified medical provider or through a consultation described  
9350 in Subsection [~~26-61a-502(4) or (5)~~] [26B-4-230\(5\)](#)."; and

9351 (5) Subsection [80-4-109\(4\)\(a\)](#) to read:

9352 "(a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's  
9353 possession or use complies with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] [Title 26B,](#)  
9354 [Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis](#), and there is no evidence that  
9355 the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of  
9356 use and dosing guidelines determined by the parent's or guardian's qualified medical provider

9357 or through a consultation described in Subsection [~~26-61a-502(4) or (5)~~] [26B-4-230\(5\)](#); or".

9358 Section 155. **Coordinating S.B. 209 with S.B. 272 -- Substantive and technical**  
9359 **amendments.**

9360 If this S.B. 209 and S.B. 272, Funds Amendments, both pass and become law, it is the  
9361 intent of the Legislature that the Office of Legislative Research and General Counsel prepare  
9362 the Utah Code database for publication on July 1, 2023, by omitting the changes to Subsection  
9363 [63M-7-303\(1\)\(h\)](#) in this bill.

9364 Section 156. **Revisor instructions.**

9365 The Legislature intends that the Office of Legislative Research and General Counsel, in  
9366 preparing the Utah Code database for publication, not enroll this bill if any of the following  
9367 bills do not pass:

9368 (a) S.B. 38, Health and Human Services Recodification - Administration, Licensing,  
9369 and Recovery Services;

9370 (b) S.B. 39, Health and Human Services Recodification - Health Care Assistance and  
9371 Data;

9372 (c) S.B. 40, Health and Human Services Recodification - Health Care Delivery and  
9373 Repeals; or

9374 (d) S.B. 41, Health and Human Services Recodification - Prevention, Supports,  
9375 Substance Use and Mental Health.