CRIMINAL CODE RECODIFICATION AND CROSS REFERENCES

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill modifies criminal provisions in Title 76, Utah Criminal Code, by redrafting offense statutes into a new structure and clarifying existing law.

Highlighted Provisions:

This bill:

- reorders language into a standardized format and clarifies existing law, including the offenses in Title 76, Chapter 8, Offenses Against the Administration of Government;
- for clarity, makes technical corrections to certain statutes resulting from the 2022 criminal code recodification:
  - in Title 76, Chapter 1, General Provisions, to reflect separation of aggravated human trafficking and aggravated human smuggling into separate statutes; and
  - in Section 76-5-404.1 to remove a conflicting provision that mandatory imprisonment was required for sexual abuse of a child;
- makes technical corrections to certain statutes resulting from the 2023 criminal code recodification:
  - in Title 76, Chapter 6, Offenses Against Property, regarding erroneous inclusion of penalty provision in offense concerning unlawful dealing of property by a fiduciary; and
  - in Title 77, Chapter 36, Cohabitant Abuse Procedures Act, to reflect separation of criminal mischief statute into two separate offenses;
- reorganizes the following offenses to enact an embedded offense as a stand-alone statute:
  - offense concerning receiving bribe or bribery for endorsement of person as public servant;
  - offense of interference with public servant; and
  - offense concerning obstruction of justice in a criminal investigation or proceeding;

- reorganizes and clarifies existing language in offense of escape and enacts embedded offense of aggravated escape as stand-alone statute;
- reorganizes existing statutes concerning secure areas, including enacting a number of statutes to reflect separate stand-alone offenses;
- reorganizes the offense of threatening an elected official;
- reorganizes offenses concerning influencing, impeding, or retaliating against a judge or a member of the Board of Pardons and Parole or a family member and enacts several stand-alone statutes to reflect separate embedded offenses;
- for clarity, revises offense concerning refusal to comply with an order to evacuate or another order issued in a local or state emergency;
- for clarity, reorganizes and revises offenses concerning aiding or concealing an adjudicated minor and trespass of a secure care facility;
- for clarity, revises statutes concerning misusing public money or public property;
- reorganizes offenses concerning refusing to give tax assessor or tax or license collector a list of, or denying access to, employees to enact embedded offense as a stand-alone statute;
- for clarity, revises language in offense concerning stealing, destroying, or mutilating public records by a custodian;
- reorganizes offenses concerning taking a toll or maintaining road, bridge, or ferry without authority to enact an embedded offense as a stand-alone statute;
- for clarity, revises statutes concerning false or inconsistent statements;
- reorganizes offenses concerning tampering with a witness and receiving or soliciting a bribe to enact embedded offense as a stand-alone statute;
- reorganizes offenses concerning a wrongful attachment by a justice court to enact embedded offense as a stand-alone statute;
- for clarity, removes provisions from Title 76, Chapter 8, Part 7, Colleges and Universities, and places them in Title 53B, State System of Higher Education;
- for clarity, revises and reorganizes offenses:
  - concerning criminal trespass upon an institution of higher education and willful interference with lawful activities of students or faculty; and
  - contained in Title 76, Chapter 8, Part 8, Sabotage Prevention;
- for clarity, repeals duplicative language concerning criminal offenses and penalties relating to revenue and taxation;
- for clarity, revises and reorganizes offenses in:
  - Title 76, Chapter 8, Part 12, Public Assistance Fraud; and

- Title 76, Chapter 8, Part 13, Unemployment Insurance Fraud; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-5, as last amended by Laws of Utah 2004, Chapter 301

26B-6-205, as renumbered and amended by Laws of Utah 2023, Chapter 308

35A-3-603, as last amended by Laws of Utah 2023, Chapter 328

35A-3-604, as last amended by Laws of Utah 2015, Chapter 221

35A-4-304, as last amended by Laws of Utah 2012, Chapter 15

35A-4-305, as last amended by Laws of Utah 2012, Chapter 15

35A-4-312, as last amended by Laws of Utah 2016, Chapter 296

53-10-403, as last amended by Laws of Utah 2023, Chapters 328, 457

53B-3-103, as last amended by Laws of Utah 2021, First Special Session, Chapter 7

59-1-401, as last amended by Laws of Utah 2023, Chapter 471

63G-12-402, as last amended by Laws of Utah 2022, Chapters 328, 370

64-13-14.5, as last amended by Laws of Utah 2015, Chapter 412

76-1-301, as last amended by Laws of Utah 2022, Chapter 181

76-3-203.1, as last amended by Laws of Utah 2023, Chapter 111

76-3-203.3, as last amended by Laws of Utah 2023, Chapter 111

76-3-203.5, as last amended by Laws of Utah 2023, Chapter 111

76-3-406, as last amended by Laws of Utah 2023, Chapter 184

76-5-203, as last amended by Laws of Utah 2022, Chapter 181

76-5-404.1, as last amended by Laws of Utah 2022, Chapter 181

76-6-513, as last amended by Laws of Utah 2023, Chapter 111

76-8-101, as last amended by Laws of Utah 2019, Chapter 211

76-8-102, as enacted by Laws of Utah 1973, Chapter 196

76-8-103, as last amended by Laws of Utah 1998, Chapter 92

76-8-104, as last amended by Laws of Utah 1991, Chapter 215

76-8-105, as repealed and reenacted by Laws of Utah 1998, Chapter 92

76-8-106, as enacted by Laws of Utah 1973, Chapter 196

76-8-107, as last amended by Laws of Utah 1974, Chapter 32
76-8-108, as last amended by Laws of Utah 1985, Chapter 21
76-8-110, as last amended by Laws of Utah 1992, Chapter 128
76-8-201, as enacted by Laws of Utah 1973, Chapter 196
76-8-202, as last amended by Laws of Utah 1991, Chapter 241
76-8-203, as last amended by Laws of Utah 2011, Chapter 336
76-8-301, as last amended by Laws of Utah 2020, Chapter 165
76-8-301.5, as last amended by Laws of Utah 2019, Chapter 411
76-8-302, as enacted by Laws of Utah 1973, Chapter 196
76-8-303, as enacted by Laws of Utah 1973, Chapter 196
76-8-305, as last amended by Laws of Utah 2017, Chapter 312
76-8-305.5, as last amended by Laws of Utah 2018, Chapter 133
76-8-306, as last amended by Laws of Utah 2021, Chapter 262
76-8-306.5, as enacted by Laws of Utah 2007, Chapter 155
76-8-307, as enacted by Laws of Utah 1973, Chapter 196
76-8-308, as last amended by Laws of Utah 1991, Chapter 241
76-8-309, as last amended by Laws of Utah 2022, Chapter 181
76-8-311.1, as last amended by Laws of Utah 2023, Chapter 330
76-8-311.3, as last amended by Laws of Utah 2023, Chapter 330
76-8-312, as last amended by Laws of Utah 1974, Chapter 32
76-8-313, as last amended by Laws of Utah 1996, Chapter 45
76-8-316, as last amended by Laws of Utah 2022, Chapter 181
76-8-317, as last amended by Laws of Utah 2013, Chapter 295
76-8-318, as last amended by Laws of Utah 2022, Chapters 181, 335
76-8-402, as last amended by Laws of Utah 2020, Chapter 61
76-8-403, as last amended by Laws of Utah 2020, Chapter 61
76-8-405, as enacted by Laws of Utah 1973, Chapter 196
76-8-406, as enacted by Laws of Utah 1973, Chapter 196
76-8-407, as enacted by Laws of Utah 1973, Chapter 196
76-8-408, as enacted by Laws of Utah 1973, Chapter 196
76-8-409, as last amended by Laws of Utah 1991, Chapter 5
76-8-410, as enacted by Laws of Utah 1973, Chapter 196
76-8-411, as enacted by Laws of Utah 1973, Chapter 196
76-8-412, as enacted by Laws of Utah 1973, Chapter 196

76-8-413, as enacted by Laws of Utah 1973, Chapter 196
76-8-414, as enacted by Laws of Utah 1973, Chapter 196
76-8-415, as enacted by Laws of Utah 1973, Chapter 196
76-8-416, as enacted by Laws of Utah 1973, Chapter 196
76-8-417, as enacted by Laws of Utah 1973, Chapter 196
76-8-418, as last amended by Laws of Utah 2022, Chapter 335
76-8-419, as last amended by Laws of Utah 2002, Chapter 166
76-8-420, as last amended by Laws of Utah 2007, Chapter 229
76-8-501, as last amended by Laws of Utah 2018, Chapter 298
76-8-502, as last amended by Laws of Utah 1997, Chapter 324
76-8-503, as last amended by Laws of Utah 2014, Chapter 167
76-8-504, as last amended by Laws of Utah 2022, Chapter 328
76-8-504.5, as enacted by Laws of Utah 1999, Chapter 215
76-8-504.6, as last amended by Laws of Utah 2015, Chapter 131
76-8-506, as last amended by Laws of Utah 2005, Chapter 92
76-8-507, as last amended by Laws of Utah 2002, Chapter 42
76-8-508, as last amended by Laws of Utah 2004, Chapter 140
76-8-508.3, as enacted by Laws of Utah 2004, Chapter 140
76-8-508.5, as last amended by Laws of Utah 1992, Chapter 219
76-8-509, as enacted by Laws of Utah 1973, Chapter 196
76-8-510.5, as last amended by Laws of Utah 2014, Chapter 167
76-8-511, as last amended by Laws of Utah 2003, Chapter 238
76-8-512, as last amended by Laws of Utah 2013, First Special Session, Chapter 4
76-8-513, as enacted by Laws of Utah 1973, Chapter 196
76-8-515, as enacted by Laws of Utah 2023, Chapter 179
76-8-601, as last amended by Laws of Utah 2008, Chapter 3
76-8-602, as last amended by Laws of Utah 1990, Chapter 59
76-8-603, as last amended by Laws of Utah 1990, Chapter 59
76-8-703, as repealed and reenacted by Laws of Utah 2013, Chapter 257
76-8-705, as last amended by Laws of Utah 2013, Chapter 257
76-8-802, as enacted by Laws of Utah 1973, Chapter 196
76-8-803, as enacted by Laws of Utah 1973, Chapter 196
76-8-804, as enacted by Laws of Utah 1973, Chapter 196
76-8-805, as enacted by Laws of Utah 1973, Chapter 196

76-8-807, as enacted by Laws of Utah 1973, Chapter 196
76-8-809, as last amended by Laws of Utah 2023, Chapter 435
76-8-810, as enacted by Laws of Utah 1973, Chapter 196
76-8-811, as last amended by Laws of Utah 1995, Chapter 20
76-8-901, as enacted by Laws of Utah 1973, Chapter 196
76-8-902, as enacted by Laws of Utah 1973, Chapter 196
76-8-903, as enacted by Laws of Utah 1973, Chapter 196
76-8-904, as enacted by Laws of Utah 1973, Chapter 196
76-8-1201, as last amended by Laws of Utah 2015, Chapter 221
76-8-1203, as last amended by Laws of Utah 2010, Chapter 94
76-8-1207, as last amended by Laws of Utah 2000, Chapter 48
76-8-1301, as last amended by Laws of Utah 2010, Chapter 193
76-8-1402, as enacted by Laws of Utah 2004, Chapter 107
76-8-1403, as last amended by Laws of Utah 2018, Chapter 133
76-9-802, as last amended by Laws of Utah 2021, Chapter 64
76-9-902, as last amended by Laws of Utah 2020, Chapter 394
76-9-1008, as last amended by Laws of Utah 2013, Chapter 278
76-10-1602, as last amended by Laws of Utah 2023, Chapters 34, 111, 139, and 330
77-23a-8, as last amended by Laws of Utah 2023, Chapter 111
77-36-1, as last amended by Laws of Utah 2022, Chapters 185, 430
77-36-1.1, as last amended by Laws of Utah 2023, Chapters 111, 184
77-37-3, as last amended by Laws of Utah 2023, Chapter 448

ENACTS:

53B-20-107, as Utah Code Annotated 1953
76-8-106.1, as Utah Code Annotated 1953
76-8-301.2, as Utah Code Annotated 1953
76-8-309.1, as Utah Code Annotated 1953
76-8-309.2, as Utah Code Annotated 1953
76-8-311.2, as Utah Code Annotated 1953
76-8-311.4, as Utah Code Annotated 1953
76-8-311.6, as Utah Code Annotated 1953
76-8-311.7, as Utah Code Annotated 1953
76-8-311.8, as Utah Code Annotated 1953
76-8-311.9, as Utah Code Annotated 1953

76-8-311.10, as Utah Code Annotated 1953
76-8-316.2, as Utah Code Annotated 1953
76-8-316.4, as Utah Code Annotated 1953
76-8-316.6, as Utah Code Annotated 1953
76-8-320, as Utah Code Annotated 1953
76-8-409.2, as Utah Code Annotated 1953
76-8-416.2, as Utah Code Annotated 1953
76-8-508.7, as Utah Code Annotated 1953
76-8-604, as Utah Code Annotated 1953
76-8-1203.1, as Utah Code Annotated 1953
76-8-1203.3, as Utah Code Annotated 1953
76-8-1203.5, as Utah Code Annotated 1953
76-8-1203.7, as Utah Code Annotated 1953
76-8-1302, as Utah Code Annotated 1953
76-8-1303, as Utah Code Annotated 1953
76-8-1304, as Utah Code Annotated 1953

RENUMBERS AND AMENDS:

76-8-319, (Renumbered from 76-8-311.5, as renumbered and amended by Laws of Utah 2021, Chapter 261)

REPEALS:

76-8-314, as last amended by Laws of Utah 1996, Chapter 45
76-8-315, as enacted by Laws of Utah 1983, Chapter 330
76-8-404, as last amended by Laws of Utah 2020, Chapter 61
76-8-505, as last amended by Laws of Utah 1997, Chapter 324
76-8-701, as last amended by Laws of Utah 2013, Chapters 10, 257
76-8-702, as last amended by Laws of Utah 2013, Chapter 257
76-8-707, as last amended by Laws of Utah 1993, Chapter 234
76-8-709, as last amended by Laws of Utah 2013, Chapter 257
76-8-716, as enacted by Laws of Utah 1973, Chapter 196
76-8-717, as last amended by Laws of Utah 2013, Chapter 257
76-8-801, as enacted by Laws of Utah 1973, Chapter 196
76-8-806, as last amended by Laws of Utah 1997, Chapter 296
76-8-808, as enacted by Laws of Utah 1973, Chapter 196
76-8-1101, as last amended by Laws of Utah 2014, Chapter 52

76-8-1202, as last amended by Laws of Utah 2023, Chapter 330
76-8-1204, as last amended by Laws of Utah 2000, Chapter 48
76-8-1205, as last amended by Laws of Utah 2015, Chapter 221
76-8-1206, as last amended by Laws of Utah 2012, Chapter 41
76-8-1401, as enacted by Laws of Utah 2004, Chapter 107

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

Section 1. Section **17-22-5** is amended to read:

17-22-5 . Sheriff's classification of jail inmates -- Classification criteria -- Alternative incarceration programs -- Limitation.

(1) Except as provided in Subsection (4), the sheriff shall adopt and implement written policies for admission of prisoners to the county jail and the classification of persons incarcerated in the jail which shall provide for the separation of prisoners by gender and by such other factors as may reasonably provide for the safety and well-being of inmates and the community. To the extent authorized by law, any written admission policies shall be applied equally to all entities using the county correctional facilities.

(2) Except as provided in Subsection (4), each county sheriff shall assign prisoners to a facility or section of a facility based on classification criteria that the sheriff develops and maintains.

(3) (a) Except as provided in Subsection (4), a county sheriff may develop and implement alternative incarceration programs that may or may not involve housing a prisoner in a jail facility.

(b) A prisoner housed under an alternative incarceration program under Subsection (3)(a) shall be considered to be in the full custody and control of the sheriff for purposes of [~~Section~~] Sections 76-8-309 and 76-8-309.1.

(c) A prisoner may not be placed in an alternative incarceration program under Subsection (3)(a) unless:

(i) the jail facility is at maximum operating capacity, as established under Subsection 17-22-5.5(2); or

(ii) ordered by the court.

(4) This section may not be construed to authorize a sheriff to modify provisions of a contract with the Department of Corrections to house in a county jail persons sentenced to the Department of Corrections.

Section 2. Section **26B-6-205** is amended to read:

26B-6-205 . Reporting requirements -- Investigation -- Exceptions -- Immunity -- Penalties -- Nonmedical healing.

(1) Except as provided in Subsection (4), if an individual has reason to believe that a vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(2) (a) If a peace officer or a law enforcement agency receives a report under Subsection (1), the peace officer or the law enforcement agency shall immediately notify Adult Protective Services.

(b) Adult Protective Services and the peace officer or the law enforcement agency shall coordinate, as appropriate, efforts to investigate the report under Subsection (1) and to provide protection to the vulnerable adult.

(3) When a report under Subsection (1), or a subsequent investigation by Adult Protective Services, indicates that a criminal offense may have occurred against a vulnerable adult:

(a) Adult Protective Services shall notify the nearest local law enforcement agency regarding the potential offense; and

(b) the law enforcement agency shall initiate an investigation in cooperation with Adult Protective Services.

(4) Subject to Subsection (5), the reporting requirement described in Subsection (1) does not apply to:

(a) a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:

(i) the perpetrator made the confession directly to the member of the clergy; and

(ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession; or

(b) an attorney, or an individual employed by the attorney, if knowledge of the suspected abuse, neglect, or exploitation of a vulnerable adult arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.

(5) (a) When a member of the clergy receives information about abuse, neglect, or exploitation of a vulnerable adult from any source other than confession of the perpetrator, the member of the clergy is required to report that information even

though the member of the clergy may have also received information about abuse, neglect, or exploitation from the confession of the perpetrator.

(b) Exemption of the reporting requirement for an individual described in Subsection (4) does not exempt the individual from any other efforts required by law to prevent further abuse, neglect, or exploitation of a vulnerable adult by the perpetrator.

(6) (a) As used in this Subsection (6), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The physician-patient privilege does not:

(i) excuse a physician from reporting suspected abuse, neglect, or exploitation of a vulnerable adult under Subsection (1); or

(ii) constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or the cause of the vulnerable adult's injuries, in any judicial or administrative proceeding resulting from a report under Subsection (1).

(7) (a) An individual who in good faith makes a report under Subsection (1), or who otherwise notifies Adult Protective Services or a peace officer or law enforcement agency, is immune from civil and criminal liability in connection with the report or notification.

(b) A covered provider or covered contractor, as defined in Section 26B-2-238, that knowingly fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law enforcement agency, under Subsection (1), is subject to a private right of action and liability for the abuse, neglect, or exploitation of a vulnerable adult that is committed by the individual who was not reported to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(c) This Subsection (7) does not provide immunity with respect to acts or omissions of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(8) If Adult Protective Services has substantial grounds to believe that an individual has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in accordance with this section, Adult Protective Services shall file a complaint with:

(a) the Division of Professional Licensing if the individual is a health care provider, as defined in Section 80-2-603, or a mental health therapist, as defined in Section 58-60-102;

(b) the appropriate law enforcement agency if the individual is a law enforcement officer, as defined in Section 53-13-103; and

(c) the State Board of Education if the individual is an educator, as defined in Section 53E-6-102.

(9) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law enforcement agency under Subsection (1).

(b) If an individual is convicted under Subsection (9)(a), the court may order the individual, in addition to any other sentence the court imposes, to:

(i) complete community service hours; or

(ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable adults.

(c) In determining whether it would be appropriate to charge an individual with a violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a reasonable individual would not have reported suspected abuse, neglect, or exploitation of a vulnerable adult because reporting would have placed the individual in immediate danger of death or serious bodily injury.

(d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use an individual's violation of Subsection (9)(a) as the basis for charging the individual with another offense.

(e) A prosecution for failure to report under Subsection (9)(a) shall be commenced within two years after the day on which the individual had knowledge of the suspected abuse, neglect, or exploitation and willfully failed to report.

(10) Under circumstances not amounting to a violation of Section 76-8-508 or 76-8-508.7, an individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or attempts to intimidate a vulnerable adult who is the subject of a report under Subsection (1), the individual who made the report under Subsection (1), a witness, or any other person cooperating with an investigation conducted in accordance with this chapter.

(11) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

Section 3. Section **35A-3-603** is amended to read:

35A-3-603 . Civil liability for overpayment.

(1) A provider, recipient, or other person who receives an overpayment shall, regardless of fault, return the overpayment or repay its value to the department immediately:

(a) upon receiving written notice of the overpayment from the department; or

(b) upon discovering the overpayment, if that occurs before receiving notice.

(2) (a) Except as provided under Subsection (2)(b), interest on the unreturned balance of the overpayment shall accrue at the rate of 1% a month.

(b) If the overpayment was not the fault of the person receiving it, that person is not liable for interest on the unreturned balance.

(c) In accordance with federal law and rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an overpayment may be recovered through deductions from cash assistance, General Assistance, SNAP benefits, other cash-related assistance provided to a recipient under this chapter, or other means provided by federal law.

(3) A person who knowingly assists a recipient, provider, or other person in obtaining an overpayment is jointly and severally liable for the overpayment.

(4) (a) In proving civil liability for overpayment under this section, or Section 35A-3-605, when fault is alleged, the department shall prove by clear and convincing evidence that the overpayment was obtained intentionally, knowingly, recklessly as "intentionally, knowingly, and recklessly" are defined in Section 76-2-103, by false statement, misrepresentation, impersonation, or other fraudulent means, including committing any of the acts or omissions described in Sections [~~76-8-1203, 76-8-1204, or 76-8-1205~~] 76-8-1203.1, 76-8-1203.3, 76-8-1203.5, or 76-8-1203.7.

(b) If fault is established under Subsection (4)(a), Section 35A-3-605, or Title 76, Chapter 8, Part 12, Public Assistance Fraud, a person who obtained or helped another obtain an overpayment is subject to:

(i) a civil penalty of 10% of the amount of the overpayment, except for overpayments related to assistance for child care services;

(ii) a civil penalty of 50% of the amount of the overpayment for overpayments related to assistance for child care services;

(iii) disqualification from receiving cash assistance from the Family Employment Program created in Section 35A-3-302 and the General Assistance program under Section 35A-3-401, if the overpayment was obtained from either of those programs, for the period described in Subsection (4)(c); and

(iv) disqualification from SNAP, if the overpayment was received from SNAP, for the period described in Subsection (4)(c).

(c) Unless otherwise provided by federal law, the period of a disqualification under Subsections (4)(b)(iii) and (iv) is for:

(i) 12 months for a first offense;

(ii) 24 months for a second offense; and

(iii) permanently for a third offense.

(5) (a) Except as provided under Subsection (5)(b), if an action is filed, the department may recover, in addition to the principal sum plus interest, reasonable attorney fees and costs.

(b) If the repayment obligation arose from an administrative error by the department, the department may not recover attorney fees and costs.

(6) If a court finds that funds or benefits were secured, in whole or part, by fraud by the person from whom repayment is sought, the court shall assess an additional sum as considered appropriate as punitive damages up to the amount of repayment being sought.

(7) A criminal action for public assistance fraud is governed by Title 76, Chapter 8, Part 12, Public Assistance Fraud.

(8) Jurisdiction over benefits is continuous.

(9) This chapter does not preclude the Department of Health and Human Services from carrying out its responsibilities under Title 26B, Chapter 3, Part 10, Medical Benefits Recovery, and Title 26B, Chapter 3, Part 11, Utah False Claims Act.

Section 4. Section **35A-3-604** is amended to read:

35A-3-604 . Obligor presumed to have notice of department's rights -- Authority to administer oaths, issue subpoenas, and compel witnesses and production of documents -- Recovery of attorney fees, costs, and interest -- Rulemaking authority -- Administrative procedures.

(1) An obligor is presumed to have received notice of the rights of the department under this part upon engaging in this state in any of the acts described in Subsections 35A-3-603(3) and (4) or Section [~~76-8-1203, 76-8-1204, or 76-8-1205~~] 76-8-1203.1, 76-8-1203.3, 76-8-1203.5, or 76-8-1203.7.

(2) For the purposes of this part, the department may administer oaths and certify official acts, issue subpoenas, and compel witnesses and the production of business records, documents, and evidence.

(3) (a) Except when an overpayment results from administrative error, the department

may recover from the obligor:

(i) reasonable [~~attorneys'~~] attorney fees;

(ii) costs incurred in pursuing administrative remedies under this part; and

(iii) interest at the rate of 1% a month accruing from the date an administrative or judicial order is issued determining the amount due under this part.

(b) The department may recover interest, attorney fees, and costs, if notice of the assessment has been included in a notice of agency action issued in compliance with Title 63G, Chapter 4, Administrative Procedures Act.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make, amend, and enforce rules to carry out the provisions of this part.

(5) Service of all notices and orders under this part shall comply with:

(a) Title 63G, Chapter 4, Administrative Procedures Act;

(b) Utah Rules of Civil Procedure; or

(c) rules made by the department under this part in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that meet standards required by due process.

Section 5. Section **35A-4-304** is amended to read:

35A-4-304 . Special provisions regarding transfers of unemployment experience and assignment rates.

(1) As used in this section:

(a) "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(b) "Person" has the meaning given that term by Section 7701(a)(1) of the Internal Revenue Code of 1986.

(c) "Trade or business" includes the employer's workforce.

(d) "Violate or attempt to violate" includes intent to evade, misrepresentation, or willful nondisclosure.

(2) Notwithstanding any other provision of this chapter, Subsections (3) and (4) shall apply regarding assignment of rates and transfers of unemployment experience.

(3) (a) If an employer transfers its trade or business, or a portion of its trade or business, to another employer and, at the time of the transfer, there is common ownership, management, or control of the employers, then the unemployment experience attributable to each employer shall be combined into a common experience rate calculation.

(b) The contribution rates of the employers shall be recalculated and made effective

upon the date of the transfer of trade or business as determined by division rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) (i) If one or more of the employers is a qualified employer at the time of the transfer, then all employing units that are party to a transfer described in Subsection (3)(a) of this section shall be assigned an overall contribution rate under Subsection 35A-4-303(4), using combined unemployment experience rating factors, for the rate year during which the transfer occurred and for the subsequent three rate years.

(ii) If none of the employing units is a qualified employer at the time of the transfer, then all employing units that are party to the transfer described in Subsection (3)(a) shall be assigned the highest overall contribution rate applicable at the time of the transfer to any employer who is party to the acquisition for the rate year during which the transfer occurred and for subsequent rate years until the time when one or more of the employing units is a qualified employer.

(iii) Once one or more employing units described in Subsection (3)(c)(ii) is a qualified employer, all the employing units shall be assigned an overall rate under Subsection 35A-4-303(4), using combined unemployment experience rating factors for subsequent rate years, not to exceed three years following the year of the transfer.

(d) The transfer of some or all of an employer's workforce to another employer shall be considered a transfer of its trade or business when, as the result of the transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce, and the trade or business is now performed by the employer to whom the workforce is transferred.

(4) (a) Whenever a person is not an employer under this chapter at the time it acquires the trade or business of an employer, the unemployment experience of the acquired business may not be transferred to that person if the division finds that the person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions.

(b) The person shall be assigned the applicable new employer rate under Subsection 35A-4-303(5).

(c) In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the division shall use objective factors which may include:

(i) the cost of acquiring the business;

(ii) whether the person continued the business enterprise of the acquired business;

(iii) how long the business enterprise was continued; or

(iv) whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

(5) (a) If a person knowingly violates or attempts to violate Subsection (3) or (4) or any other provision of this chapter related to determining the assignment of a contribution rate, or if a person knowingly advises another person in a way that results in a violation of any of those subsections or provisions, the person is subject to the following penalties:

(i) (A) If the person is an employer, then the employer shall be assigned an overall contribution rate of 5.4% for the rate year during which the violation or attempted violation occurred and for the subsequent rate year.

(B) If the person's business is already at 5.4% for any year, or if the amount of increase in the person's rate would be less than 2% for that year, then a penalty surcharge of contributions of 2% of taxable wages shall be imposed for the rate year during which the violation or attempted violation occurred and for the subsequent rate year.

(ii) (A) If the person is not an employer, the person shall be subject to a civil penalty of not more than $5,000.

(B) The fine shall be deposited in the penalty and interest account established under Section 35A-4-506.

(b) (i) In addition to the penalty imposed by Subsection (5)(a), a violation of this section may be prosecuted as unemployment insurance fraud.

(ii) The determination of the degree of an offense shall be measured by the total value of all contributions avoided or reduced or contributions sought to be avoided or reduced by the unlawful conduct as applied to the degrees listed under [~~Subsection 76-8-1301(2)(a)~~] Section 76-8-1302 or 76-8-1303.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to identify the transfer or acquisition of a business for purposes of this section.

(7) This section shall be interpreted and applied in a manner that meets the minimum requirements contained in any guidance or regulations issued by the United States Department of Labor.

Section 6. Section **35A-4-305** is amended to read:

35A-4-305 . Collection of contributions -- Unpaid contributions to bear interest -- Offer to compromise.

(1) (a) Contributions unpaid on the date on which they are due and payable, as prescribed by the division, shall bear interest at the rate of 1% per month from and after that date until payment plus accrued interest is received by the division.

(b) (i) Contribution reports not made and filed by the date on which they are due as prescribed by the division are subject to a penalty to be assessed and collected in the same manner as contributions due under this section equal to 5% of the contribution due if the failure to file on time was not more than 15 days, with an additional 5% for each additional 15 days or fraction thereof during which the failure continued, but not to exceed 25% in the aggregate and not less than $25 with respect to each reporting period.

(ii) If a report is filed after the required time and it is shown to the satisfaction of the division or its authorized representative that the failure to file was due to a reasonable cause and not to willful neglect, no addition shall be made to the contribution.

(c) (i) If contributions are unpaid after 10 days from the date of the mailing or personal delivery by the division or its authorized representative, of a written demand for payment, there shall attach to the contribution, to be assessed and collected in the same manner as contributions due under this section, a penalty equal to 5% of the contribution due.

(ii) A penalty may not attach if within 10 days after the mailing or personal delivery, arrangements for payment have been made with the division, or its authorized representative, and payment is made in accordance with those arrangements.

(d) The division shall assess as a penalty a service charge, in addition to any other penalties that may apply, in an amount not to exceed the service charge imposed by Section 7-15-1 for dishonored instruments if:

(i) any amount due the division for contributions, interest, other penalties or benefit overpayments is paid by check, draft, order, or other instrument; and

(ii) the instrument is dishonored or not paid by the institution against which it is drawn.

(e) Except for benefit overpayments under Subsection 35A-4-405(5), benefit overpayments, contributions, interest, penalties, and assessed costs, uncollected three

years after they become due, may be charged as uncollectible and removed from the records of the division if:

(i) no assets belonging to the liable person and subject to attachment can be found; and

(ii) in the opinion of the division there is no likelihood of collection at a future date.

(f) Interest and penalties collected in accordance with this section shall be paid into the Special Administrative Expense Account created by Section 35A-4-506.

(g) Action required for the collection of sums due under this chapter is subject to the applicable limitations of actions under Title 78B, Chapter 2, Statutes of Limitations.

(2) (a) If an employer fails to file a report when prescribed by the division for the purpose of determining the amount of the employer's contribution due under this chapter, or if the report when filed is incorrect or insufficient or is not satisfactory to the division, the division may determine the amount of wages paid for employment during the period or periods with respect to which the reports were or should have been made and the amount of contribution due from the employer on the basis of any information it may be able to obtain.

(b) The division shall give written notice of the determination to the employer.

(c) The determination is considered correct unless:

(i) the employer, within 10 days after mailing or personal delivery of notice of the determination, applies to the division for a review of the determination as provided in Section 35A-4-508; or

(ii) unless the division or its authorized representative of its own motion reviews the determination.

(d) The amount of contribution determined under Subsection (2)(a) is subject to penalties and interest as provided in Subsection (1).

(3) (a) If, after due notice, an employer defaults in the payment of contributions, interest, or penalties on the contributions, or a claimant defaults in a repayment of benefit overpayments and penalties on the overpayments, the amount due shall be collectible by civil action in the name of the division, and the employer adjudged in default shall pay the costs of the action.

(b) Civil actions brought under this section to collect contributions, interest, or penalties from an employer, or benefit overpayments and penalties from a claimant shall be:

(i) heard by the court at the earliest possible date; and

(ii) entitled to preference upon the calendar of the court over all other civil actions

except:

(A) petitions for judicial review under this chapter; and

(B) cases arising under the workers' compensation law of this state.

(c) (i) (A) To collect contributions, interest, or penalties, or benefit overpayments and penalties due from employers or claimants located outside Utah, the division may employ private collectors providing debt collection services outside Utah.

(B) Accounts may be placed with private collectors only after the employer or claimant has been given a final notice that the division intends to place the account with a private collector for further collection action.

(C) The notice shall advise the employer or claimant of the employer's or claimant's rights under this chapter and the applicable rules of the department.

(ii) (A) A private collector may receive as compensation up to 25% of the lesser of the amount collected or the amount due, plus the costs and fees of any civil action or postjudgment remedy instituted by the private collector with the approval of the division.

(B) The employer or claimant shall be liable to pay the compensation of the collector, costs, and fees in addition to the original amount due.

(iii) A private collector is subject to the federal Fair Debt Collection Practices Act, 15 U.S.C. Sec. 1692 et seq.

(iv) (A) A civil action may not be maintained by a private collector without specific prior written approval of the division.

(B) When division approval is given for civil action against an employer or claimant, the division may cooperate with the private collector to the extent necessary to effect the civil action.

(d) (i) Notwithstanding Section 35A-4-312, the division may disclose the contribution, interest, penalties or benefit overpayments and penalties, costs due, the name of the employer or claimant, and the employer's or claimant's address and telephone number when any collection matter is referred to a private collector under Subsection (3)(c).

(ii) A private collector is subject to the confidentiality requirements and penalty provisions provided in [~~Section~~] Sections 35A-4-312 and [~~Subsection 76-8-1301(4)~~] 76-8-1304, except to the extent disclosure is necessary in a civil action to enforce collection of the amounts due.

(e) An action taken by the division under this section may not be construed to be an election to forego other collection procedures by the division.

(4) (a) In the event of a distribution of an employer's assets under an order of a court under the laws of Utah, including a receivership, assignment for benefits of creditors, adjudicated insolvency, composition, or similar proceedings, contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for wages of not more than $400 to each claimant, earned within five months of the commencement of the proceeding.

(b) If an employer commences a proceeding in the Federal Bankruptcy Court under a chapter of 11 U.S.C. 101 et seq., as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, contributions, interest, and penalties then or thereafter due shall be entitled to the priority provided for taxes, interest, and penalties in the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

(5) (a) In addition and as an alternative to any other remedy provided by this chapter and provided that no appeal or other proceeding for review provided by this chapter is then pending and the time for taking it has expired, the division may issue a warrant in duplicate, under its official seal, directed to the sheriff of any county of the state, commanding the sheriff to levy upon and sell the real and personal property of a delinquent employer or claimant found within the sheriff's county for the payment of the contributions due, with the added penalties, interest, or benefit overpayment and penalties, and costs, and to return the warrant to the division and pay into the fund the money collected by virtue of the warrant by a time to be specified in the warrant, not more than 60 days from the date of the warrant.

(b) (i) Immediately upon receipt of the warrant in duplicate, the sheriff shall file the duplicate with the clerk of the district court in the sheriff's county.

(ii) The clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the delinquent employer or claimant mentioned in the warrant, and in appropriate columns the amount of the contribution, penalties, interest, or benefit overpayment and penalties, and costs, for which the warrant is issued and the date when the duplicate is filed.

(c) The amount of the docketed warrant shall:

(i) have the force and effect of an execution against all personal property of the delinquent employer; and

(ii) become a lien upon the real property of the delinquent employer or claimant in

the same manner and to the same extent as a judgment duly rendered by a district court and docketed in the office of the clerk.

(d) After docketing, the sheriff shall:

(i) proceed in the same manner as is prescribed by law with respect to execution issued against property upon judgments of a court of record; and

(ii) be entitled to the same fees for the sheriff's services in executing the warrant, to be collected in the same manner.

(6) (a) Contributions imposed by this chapter are a lien upon the property of an employer liable for the contribution required to be collected under this section who shall sell out the employer's business or stock of goods or shall quit business, if the employer fails to make a final report and payment on the date subsequent to the date of selling or quitting business on which they are due and payable as prescribed by rule.

(b) (i) An employer's successor, successors, or assigns, if any, are required to withhold sufficient of the purchase money to cover the amount of the contributions and interest or penalties due and payable until the former owner produces a receipt from the division showing that they have been paid or a certificate stating that no amount is due.

(ii) If the purchaser of a business or stock of goods fails to withhold sufficient purchase money, the purchaser is personally liable for the payment of the amount of the contributions required to be paid by the former owner, interest and penalties accrued and unpaid by the former owner, owners, or assignors.

(7) (a) If an employer is delinquent in the payment of a contribution, the division may give notice of the amount of the delinquency by registered mail to all persons having in their possession or under their control, any credits or other personal property belonging to the employer, or owing any debts to the employer at the time of the receipt by them of the notice.

(b) A person notified under Subsection (7)(a) shall neither transfer nor make any other disposition of the credits, other personal property, or debts until:

(i) the division has consented to a transfer or disposition; or

(ii) 20 days after the receipt of the notice.

(c) All persons notified under Subsection (7)(a) shall, within five days after receipt of the notice, advise the division of credits, other personal property, or other debts in their possession, under their control or owing by them, as the case may be.

(8) (a) (i) Each employer shall furnish the division necessary information for the proper administration of this chapter and shall include wage information for each employee, for each calendar quarter.

(ii) The information shall be furnished at a time, in the form, and to those individuals as the department may by rule require.

(b) (i) Each employer shall furnish each individual worker who is separated that information as the department may by rule require, and shall furnish within 48 hours of the receipt of a request from the division a report of the earnings of any individual during the individual's base-period.

(ii) The report shall be on a form prescribed by the division and contain all information prescribed by the division.

(c) (i) For each failure by an employer to conform to this Subsection (8) the division shall, unless good cause is shown, assess a $50 penalty if the filing was not more than 15 days late.

(ii) If the filing is more than 15 days late, the division shall assess an additional penalty of $50 for each 15 days, or a fraction of the 15 days that the filing is late, not to exceed $250 per filing.

(iii) The penalty is to be collected in the same manner as contributions due under this chapter.

(d) (i) The division shall prescribe rules providing standards for determining which contribution reports shall be filed on magnetic or electronic media or in other machine-readable form.

(ii) In prescribing these rules, the division:

(A) may not require an employer to file contribution reports on magnetic or electronic media unless the employer is required to file wage data on at least 250 employees during any calendar quarter or is an authorized employer representative who files quarterly tax reports on behalf of 100 or more employers during any calendar quarter;

(B) shall take into account, among other relevant factors, the ability of the employer to comply at reasonable cost with the requirements of the rules; and

(C) may require an employer to post a bond for failure to comply with the rules required by this Subsection (8)(d).

(9) (a) (i) An employer liable for payments in lieu of contributions shall file Reimbursable Employment and Wage Reports.

(ii) The reports are due on the last day of the month that follows the end of each calendar quarter unless the division, after giving notice, changes the due date.

(iii) A report postmarked on or before the due date is considered timely.

(b) (i) Unless the employer can show good cause, the division shall assess a $50 penalty against an employer who does not file Reimbursable Employment and Wage Reports within the time limits set out in Subsection (9)(a) if the filing was not more than 15 days late.

(ii) If the filing is more than 15 days late, the division shall assess an additional penalty of $50 for each 15 days, or a fraction of the 15 days that the filing is late, not to exceed $250 per filing.

(iii) The division shall assess and collect the penalties referred to in this Subsection (9)(b) in the same manner as prescribed in Sections 35A-4-309 and 35A-4-311.

(10) If a person liable to pay a contribution or benefit overpayment imposed by this chapter neglects or refuses to pay it after demand, the amount, including any interest, additional amount, addition to contributions, or assessable penalty, together with any additional accruable costs, shall be a lien in favor of the division upon all property and rights to property, whether real or personal belonging to the person.

(11) (a) The lien imposed by Subsection (10) arises at the time the assessment, as defined in the department rules, is made and continues until the liability for the amount assessed, or a judgment against the taxpayer arising out of the liability, is satisfied.

(b) (i) The lien imposed by Subsection (10) is not valid as against a purchaser, holder of a security interest, mechanics' lien holder, or judgment lien creditor until the division files a warrant with the clerk of the district court.

(ii) For the purposes of this Subsection (11)(b):

(A) "Judgment lien creditor" means a person who obtains a valid judgment of a court of record for recovery of specific property or a sum certain of money, and who in the case of a recovery of money, has a perfected lien under the judgment on the property involved. A judgment lien does not include inchoate liens such as attachment or garnishment liens until they ripen into a judgment. A judgment lien does not include the determination or assessment of a quasi-judicial authority, such as a state or federal taxing authority.

(B) "Mechanics' lien holder" means any person who has a lien on real property, or on the proceeds of a contract relating to real property, for services, labor, or

materials furnished in connection with the construction or improvement of the property. A person has a lien on the earliest date the lien becomes valid against subsequent purchasers without actual notice, but not before the person begins to furnish the services, labor, or materials.

(C) "Person" means:

(I) an individual;

(II) a trust;

(III) an estate;

(IV) a partnership;

(V) an association;

(VI) a company;

(VII) a limited liability company;

(VIII) a limited liability partnership; or

(IX) a corporation.

(D) "Purchaser" means a person who, for adequate and full consideration in money or money's worth, acquires an interest, other than a lien or security interest, in property which is valid under state law against subsequent purchasers without actual notice.

(E) "Security interest" means any interest in property acquired by contract for the purpose of securing payment or performance of an obligation or indemnifying against loss or liability. A security interest exists at any time:

(I) the property is in existence and the interest has become protected under the law against a subsequent judgment lien arising out of an unsecured obligation; and

(II) to the extent that, at that time, the holder has parted with money or money's worth.

(12) (a) Except in cases involving a violation of unemployment compensation provisions under Section 76-8-1301, 76-8-1302, 76-8-1303, 76-8-1304, Subsection 35A-4-304 (5), or Subsection 35A-4-405(5), and at the discretion of the division, the division may accept an offer in compromise from an employer or claimant to reduce past due debt arising from contributions or benefit overpayments imposed under this chapter.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules for allowing an offer in compromise provided under Subsection (12)(a).

Section 7. Section **35A-4-312** is amended to read:

35A-4-312 . Records.

(1) (a) An employing unit shall keep true and accurate work records containing information the department may prescribe by rule.

(b) A record shall be open to inspection and subject to being copied by the division or its authorized representatives at a reasonable time and as often as necessary.

(c) An employing unit shall make a record available in the state for three years after the calendar year in which the services are rendered.

(2) The division may require from an employing unit a sworn or unsworn report with respect to a person employed by the employing unit that the division considers necessary for the effective administration of this chapter.

(3) Except as provided in this section or in Sections 35A-4-103 and 35A-4-106, information obtained under this chapter or obtained from an individual may not be published or open to public inspection in a manner revealing the employing unit's or individual's identity.

(4) (a) The information obtained by the division under this section may not be used in court or admitted into evidence in an action or proceeding, except:

(i) in an action or proceeding arising out of this chapter;

(ii) if the Labor Commission enters into a written agreement with the division under Subsection (6)(b), in an action or proceeding by the Labor Commission to enforce:

(A) Title 34, Chapter 23, Employment of Minors;

(B) Title 34, Chapter 28, Payment of Wages;

(C) Title 34, Chapter 40, Utah Minimum Wage Act; or

(D) Title 34A, Utah Labor Code;

(iii) under the terms of a court order obtained under Subsection 63G-2-202(7) and Section 63G-2-207; or

(iv) under the terms of a written agreement between the Office of State Debt Collection and the division as provided in Subsection (5).

(b) The information obtained by the division under this section shall be disclosed to:

(i) a party to an unemployment insurance hearing before an administrative law judge of the department or a review by the Workforce Appeals Board to the extent necessary for the proper presentation of the party's case; or

(ii) an employer, upon request in writing for information concerning a claim for a benefit with respect to a former employee of the employer.

(5) The information obtained by the division under this section may be disclosed to:

(a) an employee of the department in the performance of the employee's duties in administering this chapter or other programs of the department;

(b) an employee of the Labor Commission for the purpose of carrying out the programs administered by the Labor Commission;

(c) an employee of the Department of Commerce for the purpose of carrying out the programs administered by the Department of Commerce;

(d) an employee of the governor's office or another state governmental agency administratively responsible for statewide economic development, to the extent necessary for economic development policy analysis and formulation;

(e) an employee of another governmental agency that is specifically identified and authorized by federal or state law to receive the information for the purposes stated in the law authorizing the employee of the agency to receive the information;

(f) an employee of a governmental agency or workers' compensation insurer to the extent the information will aid in:

(i) the detection or avoidance of duplicate, inconsistent, or fraudulent claims against:

(A) a workers' compensation program; or

(B) public assistance funds; or

(ii) the recovery of overpayments of workers' compensation or public assistance funds;

(g) an employee of a law enforcement agency to the extent the disclosure is necessary to avoid a significant risk to public safety or in aid of a felony criminal investigation;

(h) an employee of the State Tax Commission or the Internal Revenue Service for the purposes of:

(i) audit verification or simplification;

(ii) state or federal tax compliance;

(iii) verification of a code or classification of the:

(A) 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(B) 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) statistics;

(i) an employee or contractor of the department or an educational institution, or other governmental entity engaged in workforce investment and development activities under the Workforce Innovation and Opportunity Act, 29 U.S.C. Sec. 3101 et seq.,

for the purpose of:

(i) coordinating services with the department;

(ii) evaluating the effectiveness of those activities; and

(iii) measuring performance;

(j) an employee of the Governor's Office of Economic Opportunity, for the purpose of periodically publishing in the Directory of Business and Industry, the name, address, telephone number, number of employees by range, code or classification of an employer, and type of ownership of Utah employers;

(k) the public for any purpose following a written waiver by all interested parties of their rights to nondisclosure;

(l) an individual whose wage data is submitted to the department by an employer, if no information other than the individual's wage data and the identity of the employer who submitted the information is provided to the individual;

(m) an employee of the Insurance Department for the purpose of administering Title 31A, Chapter 40, Professional Employer Organization Licensing Act;

(n) an employee of the Office of State Debt Collection for the purpose of collecting state accounts receivable as provided in Section 63A-3-502; or

(o) a creditor, under a court order, to collect on a judgment as provided in Section 35A-4-314.

(6) Disclosure of private information under Subsection (4)(a)(ii) or Subsection (5), with the exception of Subsections (5)(a), (g), and (o), may be made if:

(a) the division determines that the disclosure will not have a negative effect on:

(i) the willingness of employers to report wage and employment information; or

(ii) the willingness of individuals to file claims for unemployment benefits; and

(b) the agency enters into a written agreement with the division in accordance with rules made by the department.

(7) (a) The employees of a division of the department other than the Workforce Research and Analysis Division and the Unemployment Insurance Division or an agency receiving private information from the division under this chapter are subject to the same requirements of privacy and confidentiality and to the same penalties for misuse or improper disclosure of the information as employees of the division.

(b) Use of private information obtained from the department by a person or for a purpose other than one authorized in Subsection (4) or (5) violates [~~Subsection 76-8-1301(4)~~] Section 76-8-1304.

Section 8. Section **53-10-403** is amended to read:

53-10-403 . DNA specimen analysis -- Application to offenders, including minors.

(1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person who:

(a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) is a minor under Subsection (3).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c) (i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26B-8-315;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8 (2)(g);

(v) a felony violation of enticing a minor, Section 76-4-401;

(vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

(vii) a felony violation of propelling a substance or object at a correctional officer, a

peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(viii) negligently operating a vehicle resulting in death, Subsection 76-5-207(2)(b);

(ix) aggravated human trafficking, Section 76-5-310, and aggravated human smuggling, Section 76-5-310.1;

(x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xiii) sale of a child, Section 76-7-203;

(xiv) aggravated escape, [~~Subsection 76-8-309(2)~~] Section 76-8-309.1;

(xv) a felony violation of [~~assault on an elected official~~] threatened or attempted assault on an elected official, Section [~~76-8-315~~] 76-8-313;

(xvi) [~~influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole~~] threat with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;

(xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.2;

(xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.4;

(xix) attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.6;

[~~(xvii)~~] (xx) advocating criminal syndicalism or sabotage, Section 76-8-902;

[~~(xviii)~~] (xxi) [~~assembly~~] assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;

[~~(xix)~~] (xxii) a felony violation of sexual battery, Section 76-9-702.1;

[~~(xx)~~] (xxiii) a felony violation of lewdness involving a child, Section 76-9-702.5;

[~~(xxi)~~] (xxiv) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

[~~(xxii)~~] (xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

[~~(xxiii)~~] (xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

[~~(xxiv)~~] (xxvii) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

[~~(xxv)~~] (xxviii) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

[~~(xxvi)~~] (xxix) commercial obstruction, Subsection 76-10-2402(2);

[~~(xxvii)~~] (xxx) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

[~~(xxviii)~~] (xxxi) repeat violation of a protective order, Subsection 77-36-1.1(4); or

[~~(xxix)~~] (xxxii) violation of condition for release after arrest under Section 78B-7-802.

(3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated by the juvenile court due to the commission of any offense described in Subsection (2), and who:

(a) committed an offense under Subsection (2) within the jurisdiction of the juvenile court on or after July 1, 2002; or

(b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or after July 1, 2002, for an offense under Subsection (2).

Section 9. Section **53B-3-103** is amended to read:

53B-3-103 . Power of board to adopt rules and enact regulations.

(1) The board may enact regulations governing the conduct of university and college students, faculty, and employees.

(2) (a) The board may:

(i) enact and authorize higher education institutions to enact traffic, parking, and related regulations governing all individuals on campuses and other facilities owned or controlled by the institutions or the board; and

(ii) acknowledging that the Legislature has the authority to regulate, by law, firearms at higher education institutions:

(A) authorize higher education institutions to establish no more than one secure area at each institution as a hearing room as prescribed in Section 76-8-311.1,

but not otherwise restrict the lawful possession or carrying of firearms; and

(B) authorize a higher education institution to make a rule that allows a resident of a dormitory located at the institution to request only roommates who are not licensed to carry a concealed firearm under Section 53-5-704 or 53-5-705.

(b) In addition to the requirements and penalty prescribed in [~~Subsections 76-8-311.1(3), (4), (5), and (6)~~] Sections 76-8-311.1 and 76-8-311.2, the board shall make rules to ensure that:

(i) reasonable means such as mechanical, electronic, x-ray, or similar devices are used to detect firearms, ammunition, or dangerous weapons contained in the personal property of or on the person of any individual attempting to enter a secure area hearing room;

(ii) an individual required or requested to attend a hearing in a secure area hearing room is notified in writing of the requirements related to entering a secured area hearing room under this Subsection (2)(b) and Section 76-8-311.1;

(iii) the restriction of firearms, ammunition, or dangerous weapons in the secure area hearing room is in effect only during the time the secure area hearing room is in use for hearings and for a reasonable time before and after its use; and

(iv) reasonable space limitations are applied to the secure area hearing room as warranted by the number of individuals involved in a typical hearing.

(c) (i) The board may not require proof of vaccination as a condition for enrollment or attendance within the system of higher education unless the board allows for the following exemptions:

(A) a medical exemption if the student provides to the institution a statement that the claimed exemption is for a medical reason; and

(B) a personal exemption if the student provides to the institution a statement that the claimed exemption is for a personal or religious belief.

(ii) An institution that offers both remote and in-person learning options may not deny a student who is exempt from a requirement to receive a vaccine under Subsection (2)(c)(i) to participate in an in-person learning option based upon the student's vaccination status.

(iii) Subsections (2)(c)(i) and (ii) do not apply to a student studying in a medical setting at an institution of higher education.

(iv) Nothing in this section restricts a state or local health department from acting under applicable law to contain the spread of an infectious disease.

(d) (i) For purposes of this Subsection (2)(d), "face covering" means the same as that term is defined in Section 53G-9-210.

(ii) The board may not require an individual to wear a face covering as a condition of attendance for in-person instruction, institution-sponsored athletics, institution-sponsored extracurricular activities, in dormitories, or in any other place on a campus of an institution within the system of higher education at any time after the end of the spring semester in 2021.

(iii) Subsection (2)(d)(ii) does not apply to an individual in a medical setting at an institution of higher education.

(3) The board shall enact regulations that require all testimony be given under oath during an employee grievance hearing for a non-faculty employee of an institution of higher education if the grievance hearing relates to the non-faculty employee's:

(a) demotion; or

(b) termination.

(4) The board and institutions may enforce these rules and regulations in any reasonable manner, including the assessment of fees, fines, and forfeitures, the collection of which may be by withholding from money owed the violator, the imposition of probation, suspension, or expulsion from the institution, the revocation of privileges, the refusal to issue certificates, degrees, and diplomas, through judicial process or any reasonable combination of these alternatives.

Section 10. Section **53B-20-107** is enacted to read:

53B-20-107 . Powers of chief administrative officer to order individuals off an institution of higher education's property.

(1) As used in this section:

(a) "Chief administrative officer" means the president of an institution or an individual designated by the president.

(b) "Institution of higher education" means:

(i) a state institution of higher education as defined in Section 53B-3-102; or

(ii) a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) It is the purpose of this section to:

(a) supplement and clarify the power vested in the governing board of each institution of higher education; and

(b) regulate, conduct, and enforce law and order on property owned, operated, or controlled by each institution of higher education.

(3) A chief administrative officer may order an individual to leave property that is owned, operated, or controlled by an institution of higher education if:

(a) the individual acts, or if the chief administrative officer has reasonable cause to believe that the individual intends to act, to:

(i) cause injury to an individual;

(ii) cause damage to property;

(iii) commit a crime;

(iv) interfere with the peaceful conduct of the activities of the institution of higher education;

(v) violate a rule or regulation of the institution of higher education if that rule or regulation is not in conflict with state law; or

(vi) disrupt the institution of higher education, the institution's pupils, or the institution of higher education's activities; or

(b) the individual is reckless as to whether the individual's actions will cause fear for the safety of another individual.

(4) (a) If a law enforcement agency or security department of an institution of higher education lacks sufficient manpower to deal effectively with a condition of unrest existing or developing on a campus or related facility of the institution of higher education in the judgment of the chief administrative officer, the chief administrative officer may call for assistance from the county sheriff of the county, a city law enforcement agency, or the Department of Public Safety.

(b) Upon receipt of the request under Subsection (4)(a), the county sheriff, a city law enforcement agency, or the Department of Public Safety must render all necessary assistance without expense to the institution of higher education.

(c) All personnel while rendering assistance to the institution of higher education shall serve under the general direction of the chief administrative officer.

(5) Nothing in this section shall limit:

(a) the right or duty of a local law enforcement agency to enforce the law which the local law enforcement agency had prior to this enactment; or

(b) the right of a state or local law enforcement agency to enforce the laws of this state.

Section 11. Section **59-1-401** is amended to read:

59-1-401 . Definitions -- Offenses and penalties -- Rulemaking authority --

Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.

(1) As used in this section:

(a) "Tax, fee, or charge" means:

(i) a tax, fee, or charge the commission administers under:

(A) this title;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-410.5;

(E) Section 19-6-714;

(F) Section 19-6-805;

(G) Section 34A-2-202;

(H) Section 40-6-14; or

(I) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; or

(ii) another amount that by statute is subject to a penalty imposed under this section.

(b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(iii) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(iv) Chapter 3, Tax Equivalent Property Act; or

(v) Chapter 4, Privilege Tax.

(2) (a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:

(A) the date the person files the return; or

(B) the last day of that extension of time as allowed by law.

(b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

(i) $20; or

(ii) (A) 2% of the unpaid tax, fee, or charge due on the return if the return is filed

no later than five days after the due date described in Subsection (2)(a);

(B) 5% of the unpaid tax, fee, or charge due on the return if the return is filed more than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

(C) 10% of the unpaid tax, fee, or charge due on the return if the return is filed more than 15 days after the due date described in Subsection (2)(a).

(d) This Subsection (2) does not apply to:

(i) an amended return; or

(ii) a return with no tax due.

(3) (a) Except as provided in Subsection (15), a person is subject to a penalty for failure to pay a tax, fee, or charge if:

(i) the person files a return on or before the due date for filing a return described in Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due date;

(ii) the person:

(A) is subject to a penalty under Subsection (2)(b); and

(B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a);

(iii) (A) the person is subject to a penalty under Subsection (2)(b); and

(B) the commission estimates an amount of tax due for that person in accordance with Subsection 59-1-1406(2);

(iv) the person:

(A) is mailed a notice of deficiency; and

(B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:

(I) does not file a petition for redetermination or a request for agency action; and

(II) fails to pay the tax, fee, or charge due on a return;

(v) (A) the commission:

(I) issues an order constituting final agency action resulting from a timely filed petition for redetermination or a timely filed request for agency action; or

(II) is considered to have denied a request for reconsideration under Subsection 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed request for agency action; and

(B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:

(I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or

(vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.

(b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

(i) $20; or

(ii) (A) 2% of the unpaid tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

(B) 5% of the unpaid tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

(C) 10% of the unpaid tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(4) (a) In the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) $20; or

(B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) $20; or

(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time.

(7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the

underpayment that is due to negligence.

(ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of $500 per period or 50% of the entire underpayment.

(iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of $500 per period or 100% of the entire underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by certified mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice; or

(B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

(iii) A person against whom a penalty is proposed in accordance with this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv) (A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.

(B) The commission shall mail the notice and demand for payment described in Subsection (7)(b)(iv)(A):

(I) to the person's last-known address; and

(II) in accordance with Section 59-1-1404.

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an information return, information report, or a complete supporting schedule is $50 for each

information return, information report, or supporting schedule up to a maximum of $1,000.

(b) If an employer is subject to a penalty under Subsection (13), the employer may not be subject to a penalty under Subsection (8)(a).

(c) If an employer is subject to a penalty under this Subsection (8) for failure to file a return in accordance with Subsection 59-10-406(3) on or before the due date described in Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection (8) unless the return is filed more than 14 days after the due date described in Subsection 59-10-406(3)(b)(ii).

(9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of a law relating to a tax, fee, or charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is $500.

(10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

(i) commits an act described in Subsection (11)(b) with respect to one or more of the following documents:

(A) a return;

(B) an affidavit;

(C) a claim; or

(D) a document similar to Subsections (11)(a)(i)(A) through (C);

(ii) knows or has reason to believe that the document described in Subsection (11)(a)(i) will be used in connection with any material matter administered by the commission; and

(iii) knows that the document described in Subsection (11)(a)(i), if used in connection with any material matter administered by the commission, would result in an understatement of another person's liability for a tax, fee, or charge.

(b) The following acts apply to Subsection (11)(a)(i):

(i) preparing any portion of a document described in Subsection (11)(a)(i);

(ii) presenting any portion of a document described in Subsection (11)(a)(i);

(iii) procuring any portion of a document described in Subsection (11)(a)(i);

(iv) advising in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(v) aiding in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(vi) assisting in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i); or

(vii) counseling in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i).

(c) For purposes of Subsection (11)(a), the penalty:

(i) shall be imposed by the commission;

(ii) is $500 for each document described in Subsection (11)(a)(i) with respect to which the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

(iii) is in addition to any other penalty provided by law.

(d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (11).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).

(12) (a) [~~As provided in Section 76-8-1101, criminal~~] Criminal offenses and penalties are [~~as~~]provided in Subsections (12)(b) through (e).

(b) (i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the

penalty may not:

(A) be less than $500; or

(B) exceed $1,000.

(c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

(A) be less than $1,000; or

(B) exceed $5,000.

(d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

(A) be less than $1,500; or

(B) exceed $25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

(I) a return;

(II) an affidavit;

(III) a claim; or

(IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (12)(e)(iii), with knowledge that the document described in Subsection (12)(e)(i)(A):

(I) is false or fraudulent as to any material matter; and

(II) could be used in connection with any material matter administered by the commission.

(ii) The following acts apply to Subsection (12)(e)(i):

(A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

(B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

(C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

(D) advising in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(E) aiding in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(F) assisting in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A); or

(G) counseling in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A).

(iii) This Subsection (12)(e) applies:

(A) regardless of whether the person for which the document described in Subsection (12)(e)(i)(A) is prepared or presented:

(I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

(II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the penalty may not:

(A) be less than $1,500; or

(B) exceed $25,000.

(v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (12)(e).

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (12)(e)(i)(A)(I) through (III).

(f) The statute of limitations for prosecution for a violation of this Subsection (12) is the later of six years:

(i) from the date the tax should have been remitted; or

(ii) after the day on which the person commits the criminal offense.

(13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with the commission in accordance with Subsection 59-10-406(8) or (9) is subject to a penalty described in Subsection (13)(b) if the employer:

(i) fails to file the form with the commission in an electronic format approved by the

commission as required by Subsection 59-10-406(8) or (9);

(ii) fails to file the form on or before the due date provided in Subsection 59-10-406 (8) or (9);

(iii) fails to provide accurate information on the form; or

(iv) fails to provide all of the information required by the Internal Revenue Service to be contained on the form.

(b) For purposes of Subsection (13)(a), the penalty is:

(i) $30 per form, not to exceed $75,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8) or (9), more than 14 days after the due date provided in Subsection 59-10-406(8) or (9) but no later than 30 days after the due date provided in Subsection 59-10-406(8) or (9);

(ii) $60 per form, not to exceed $200,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8) or (9), more than 30 days after the due date provided in Subsection 59-10-406(8) or (9) but on or before June 1; or

(iii) $100 per form, not to exceed $500,000 in a calendar year, if the employer:

(A) files the form in accordance with Subsection 59-10-406(8) or (9) after June 1; or

(B) fails to file the form.

(14) Upon making a record of the commission's actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

(15) Failure to pay a tax described in Subsection 59-10-1403.2(2) shall be subject to a penalty as described in Subsection (3) except that the penalty shall be:

(a) assessed only if the pass-through entity reports tax paid on a Utah Schedule K-1 but does not pay some or all of the tax reported; and

(b) calculated based on the difference between the amount of tax reported and the amount of tax paid.

Section 12. Section **63G-12-402** is amended to read:

63G-12-402 . Receipt of state, local, or federal public benefits -- Verification -- Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.

(1) (a) Except as provided in Subsection (3) or when exempted by federal law, an agency or political subdivision of the state shall verify the lawful presence in the United States of an individual at least 18 years old who applies for:

(i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or

(ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an agency or political subdivision of this state.

(b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of Commerce shall verify in accordance with this Subsection (1) the lawful presence in the United States of each individual who:

(i) owns an interest in the contractor that is an unincorporated entity; and

(ii) engages, or will engage, in a construction trade in Utah as an owner of the contractor described in Subsection (1)(b)(i).

(2) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(3) Verification of lawful presence under this section is not required for:

(a) any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;

(b) assistance for health care items and services that:

(i) are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C. Sec. 1396b(v)(3), of the individual involved; and

(ii) are not related to an organ transplant procedure;

(c) short-term, noncash, in-kind emergency disaster relief;

(d) public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not the symptoms are caused by the communicable disease;

(e) programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter, specified by the United States Attorney General, in the sole and unreviewable discretion of the United States Attorney General after consultation with appropriate federal agencies and departments, that:

(i) deliver in-kind services at the community level, including through public or private nonprofit agencies;

(ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the individual recipient; and

(iii) are necessary for the protection of life or safety;

(f) the exemption for paying the nonresident portion of total tuition as set forth in

Section 53B-8-106;

(g) an applicant for a license under Section 61-1-4, if the applicant:

(i) is registered with the Financial Industry Regulatory Authority; and

(ii) files an application with the state Division of Securities through the Central Registration Depository;

(h) a state public benefit to be given to an individual under Title 49, Utah State Retirement and Insurance Benefit Act;

(i) a home loan that will be insured, guaranteed, or purchased by:

(i) the Federal Housing Administration, the Veterans Administration, or any other federal agency; or

(ii) an enterprise as defined in 12 U.S.C. Sec. 4502;

(j) a subordinate loan or a grant that will be made to an applicant in connection with a home loan that does not require verification under Subsection (3)(i);

(k) an applicant for a license issued by the Department of Commerce or individual described in Subsection (1)(b), if the applicant or individual provides the Department of Commerce:

(i) certification, under penalty of perjury, that the applicant or individual is:

(A) a United States citizen;

(B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or

(C) lawfully present in the United States; and

(ii) (A) the number assigned to a driver license or identification card issued under Title 53, Chapter 3, Uniform Driver License Act; or

(B) the number assigned to a driver license or identification card issued by a state other than Utah if, as part of issuing the driver license or identification card, the state verifies an individual's lawful presence in the United States; and

(l) an applicant for:

(i) an Opportunity scholarship described in Title 53B, Chapter 8, Part 2, Regents' Scholarship Program;

(ii) a New Century scholarship described in Section 53B-8-105;

(iii) a promise grant described in Section 53B-13a-104; or

(iv) a scholarship:

(A) for an individual who is a graduate of a high school located within Utah; and

(B) administered by an institution of higher education as defined in Section 53B-2-101.

(4) (a) An agency or political subdivision required to verify the lawful presence in the United States of an applicant under this section shall require the applicant to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is:

(A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

(B) lawfully present in the United States.

(b) The certificate required under this Subsection (4) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(5) An agency or political subdivision shall verify a certification required under Subsection (4)(a)(ii) through the federal SAVE program.

(6) (a) An individual who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject to the criminal penalties applicable in this state for:

(i) making a written false statement under Section 76-8-504; and

(ii) fraudulently obtaining:

(A) public assistance program benefits under [~~Sections 76-8-1205 and 76-8-1206~~] Section 76-8-1203.1; or

(B) unemployment compensation under Section 76-8-1301, 76-8-1302, 76-8-1303, or 76-8-1304.

(b) If the certification constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United States Attorney General for the applicable district based upon the venue in which the application was made.

(c) If an agency or political subdivision receives verification that a person making an application for a benefit, service, or license is not a qualified alien, the agency or political subdivision shall provide the information to the Office of the Attorney General unless prohibited by federal mandate.

(7) An agency or political subdivision may adopt variations to the requirements of this section that:

(a) clearly improve the efficiency of or reduce delay in the verification process; or

(b) provide for adjudication of unique individual circumstances where the verification procedures in this section would impose an unusual hardship on a legal resident of Utah.

(8) It is unlawful for an agency or a political subdivision of this state to provide a state, local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

(9) A state agency or department that administers a program of state or local public benefits shall:

(a) provide an annual report to the governor, the president of the Senate, and the speaker of the House regarding its compliance with this section; and

(b) (i) monitor the federal SAVE program for application verification errors and significant delays;

(ii) provide an annual report on the errors and delays to ensure that the application of the federal SAVE program is not erroneously denying a state or local benefit to a legal resident of the state; and

(iii) report delays and errors in the federal SAVE program to the United States Department of Homeland Security.

Section 13. Section **64-13-14.5** is amended to read:

64-13-14.5 . Limits of confinement place -- Release status -- Work release.

(1) The department may extend the limits of the place of confinement of an inmate when, as established by department policies and procedures, there is cause to believe the inmate will honor the trust, by authorizing the inmate under prescribed conditions:

(a) to leave temporarily for purposes specified by department policies and procedures to visit specifically designated places for a period not to exceed 30 days;

(b) to participate in a voluntary training program in the community while housed at a correctional facility or to work at paid employment;

(c) to be housed in a nonsecure community correctional center operated by the department; or

(d) to be housed in any other facility under contract with the department.

(2) The department shall establish rules governing offenders on release status. A copy of the rules shall be furnished to the offender and to any employer or other person participating in the offender's release program. Any employer or other participating person shall agree in writing to abide by the rules and to notify the department of the offender's discharge or other release from a release program activity, or of any violation of the rules governing release status.

(3) The willful failure of an inmate to remain within the extended limits of his confinement or to return within the time prescribed to an institution or facility designated by the

department is an escape from custody.

(4) If an offender is arrested for the commission of a crime, the arresting authority shall immediately notify the department of the arrest.

(5) The department may impose appropriate sanctions pursuant to Section 64-13-21 upon offenders who violate guidelines established by the Utah Sentencing Commission, including prosecution for escape under Section 76-8-309 or 76-8-309.1 and for unauthorized absence.

(6) An inmate who is housed at a nonsecure correctional facility and on work release may not be required to work for less than the current federally established minimum wage, or under substandard working conditions.

Section 14. Section **76-1-301** is amended to read:

76-1-301 . Offenses for which prosecution may be commenced at any time.

(1) As used in this section:

(a) "Aggravating offense" means any offense incident to which a homicide was committed as described in Subsection 76-5-202(2)(a)(iv) or (v) or Subsection 76-5-202(2)(b).

(b) "Predicate offense" means an offense described in Subsection 76-5-203(1)(a) if a person other than a party as defined in Section 76-2-202 was killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of the offense.

(2) Notwithstanding any other provisions of this code, prosecution for the following offenses may be commenced at any time:

(a) an offense classified as a capital felony under Section 76-3-103;

(b) aggravated murder under Section 76-5-202;

(c) murder under Section 76-5-203;

(d) manslaughter under Section 76-5-205;

(e) child abuse homicide under Section 76-5-208;

(f) aggravated kidnapping under Section 76-5-302;

(g) child kidnapping under Section 76-5-301.1;

(h) rape under Section 76-5-402;

(i) rape of a child under Section 76-5-402.1;

(j) object rape under Section 76-5-402.2;

(k) object rape of a child under Section 76-5-402.3;

(l) forcible sodomy under Section 76-5-403;

(m) sodomy on a child under Section 76-5-403.1;

(n) sexual abuse of a child under Section 76-5-404.1;

(o) aggravated sexual abuse of a child under Section 76-5-404.3;

(p) aggravated sexual assault under Section 76-5-405;

(q) any predicate offense to a murder or aggravating offense to an aggravated murder;

(r) aggravated human trafficking [~~or aggravated human smuggling in violation of~~] under Section 76-5-310;

(s) aggravated human smuggling under Section 76-5-310.1;

[~~(s)~~] (t) aggravated exploitation of prostitution involving a child[~~,~~] under Section 76-10-1306; or

[~~(t)~~] (u) human trafficking of a child[~~,~~] under Section 76-5-308.5.

Section 15. Section **76-3-203.1** is amended to read:

76-3-203.1 . Offenses committed in concert with three or more persons or in relation to a criminal street gang -- Notice -- Enhanced penalties.

(1) As used in this section:

(a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

(b) "In concert with three or more persons" means:

(i) the defendant was aided or encouraged by at least three other persons in committing the offense and was aware of this aid or encouragement; and

(ii) each of the other persons:

(A) was physically present; and

(B) participated as a party to any offense listed in Subsection (4), (5), or (6).

(c) "In concert with three or more persons" means, regarding intent:

(i) other persons participating as parties need not have the intent to engage in the same offense or degree of offense as the defendant; and

(ii) a minor is a party if the minor's actions would cause the minor to be a party if the minor were an adult.

(2) A person who commits any offense in accordance with this section is subject to an enhanced penalty as provided in Subsection (4), (5), or (6) if the trier of fact finds beyond a reasonable doubt that the person acted:

(a) in concert with three or more persons;

(b) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(c) to gain recognition, acceptance, membership, or increased status with a criminal

street gang as defined in Section 76-9-802.

(3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

(4) (a) For an offense listed in Subsection (4)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor; and

(ii) for a class A misdemeanor, as a third degree felony.

(b) The following offenses are subject to Subsection (4)(a):

(i) criminal mischief as described in Section 76-6-106;

(ii) property damage or destruction as described in Section 76-6-106.1; and

(iii) defacement by graffiti as described in Section 76-6-107.

(5) (a) For an offense listed in Subsection (5)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony; and

(iii) for a third degree felony, as a second degree felony.

(b) The following offenses are subject to Subsection (5)(a):

(i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);

(ii) any offense of obstructing government operations under Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

(iii) tampering with a witness [~~or other violation of~~] under Section 76-8-508;

(iv) retaliation against a witness, victim, or informant, or other violation of Section 76-8-508.3;

(v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

[~~(v)~~] (vi) extortion or bribery to dismiss a criminal proceeding as defined in Section 76-8-509;

[~~(vi)~~] (vii) any weapons offense under Chapter 10, Part 5, Weapons; and

[~~(vii)~~] (viii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act.

(6) (a) For an offense listed in Subsection (6)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony;

(iii) for a third degree felony, as a second degree felony; and

(iv) for a second degree felony, as a first degree felony.

(b) The following offenses are subject to Subsection (6)(a):

(i) assault and related offenses under Chapter 5, Part 1, Assault and Related Offenses;

(ii) any criminal homicide offense under Chapter 5, Part 2, Criminal Homicide;

(iii) kidnapping and related offenses under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(iv) any felony sexual offense under Chapter 5, Part 4, Sexual Offenses;

(v) sexual exploitation of a minor as defined in Section 76-5b-201;

(vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;

(vii) robbery and aggravated robbery under Chapter 6, Part 3, Robbery; and

(viii) aggravated exploitation of prostitution under Section 76-10-1306.

(7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the individual placed on probation for the higher level of offense.

(8) It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert are not identified, apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.

Section 16. Section **76-3-203.3** is amended to read:

76-3-203.3 . Penalty for hate crimes -- Civil rights violation.

As used in this section:

(1) "Primary offense" means those offenses provided in Subsection (4).

(2) (a) A person who commits any primary offense with the intent to intimidate or terrorize another person or with reason to believe that his action would intimidate or terrorize that person is subject to Subsection (2)(b).

(b) (i) A class C misdemeanor primary offense is a class B misdemeanor; and

(ii) a class B misdemeanor primary offense is a class A misdemeanor.

(3) "Intimidate or terrorize" means an act which causes the person to fear for his physical safety or damages the property of that person or another. The act must be accompanied with the intent to cause or has the effect of causing a person to reasonably fear to freely exercise or enjoy any right secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

(4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:

(a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106, 76-5-107, and 76-5-108;

(b) any misdemeanor property destruction offense under Sections 76-6-102 and 76-6-104, and Subsection 76-6-106(2)(a);

(c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;

(d) any misdemeanor theft offense under Section 76-6-412;

(e) any offense of obstructing government operations under Sections 76-8-301, 76-8-301.2, 76-8-302, 76-8-305, 76-8-306, 76-8-307, 76-8-308, 76-8-309.2, and 76-8-313;

(f) any offense of interfering or intending to interfere with activities of colleges and universities under Title 76, Chapter 8, Part 7, Colleges and Universities;

(g) any misdemeanor offense against public order and decency as defined in Title 76, Chapter 9, Part 1, Breaches of the Peace and Related Offenses;

(h) any telephone abuse offense under Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;

(i) any cruelty to animals offense under Section 76-9-301;

(j) any weapons offense under Section 76-10-506; or

(k) a violation of Section 76-9-102, if the violation occurs at an official meeting.

(5) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech or other recognized rights secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

Section 17. Section **76-3-203.5** is amended to read:

76-3-203.5 . Habitual violent offender -- Definition -- Procedure -- Penalty.

(1) As used in this section:

(a) "Felony" means any violation of a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.

(b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.

(c) "Violent felony" means:

(i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of the following offenses punishable as a felony:

(A) [~~aggravated arson, arson,~~] arson as described in Section 76-6-102;

(B) [~~knowingly causing a catastrophe,~~] causing a catastrophe as described in

Subsection 76-6-105(3)(a) or (3)(b);

(C) [~~and criminal mischief, Chapter 6, Part 1, Property Destruction~~] criminal mischief as described in Section 76-6-106;

(D) aggravated arson as described in Section 76-6-103;

[~~(B)~~] (E) assault by prisoner[~~,~~] as described in Section 76-5-102.5;

[~~(C)~~] (F) disarming a police officer[~~,~~] as described in Section 76-5-102.8;

[~~(D)~~] (G) aggravated assault[~~,~~] as described in Section 76-5-103;

[~~(E)~~] (H) aggravated assault by prisoner[~~,~~] as described in Section 76-5-103.5;

[~~(F)~~] (I) mayhem[~~,~~] as described in Section 76-5-105;

[~~(G)~~] (J) stalking[~~,~~] as described in Subsection 76-5-106.5(2);

[~~(H)~~] (K) threat of terrorism[~~,~~] as described in Section 76-5-107.3;

[~~(I)~~] (L) aggravated child abuse[~~,~~] as described in Subsection 76-5-109.2(3)(a) or (b);

[~~(J)~~] (M) commission of domestic violence in the presence of a child[~~,~~] as described in Section 76-5-114;

[~~(K)~~] (N) abuse or neglect of a child with a disability[~~,~~] as described in Section 76-5-110;

[~~(L)~~] (O) abuse or exploitation of a vulnerable adult[~~,~~] as described in Section 76-5-111, 76-5-111.2, 76-5-111.3, or 76-5-111.4;

[~~(M)~~] (P) endangerment of a child or vulnerable adult[~~,~~] as described in Section 76-5-112.5;

[~~(N)~~] (Q) [~~criminal homicide offenses under~~] an offense described in Chapter 5, Part 2, Criminal Homicide;

[~~(O)~~] (R) [~~kidnapping, ~~] kidnapping as described in Section 76-5-301;

(S) [~~child kidnapping, and ~~] child kidnapping as described in Section 76-5-301.1;

(T) [~~aggravated kidnapping under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling~~] aggravated kidnapping as described in Section 76-5-302;

[~~(P)~~] (U) rape[~~,~~] as described in Section 76-5-402;

[~~(Q)~~] (V) rape of a child[~~,~~] as described in Section 76-5-402.1;

[~~(R)~~] (W) object rape[~~,~~] as described in Section 76-5-402.2;

[~~(S)~~] (X) object rape of a child[~~,~~] as described in Section 76-5-402.3;

[~~(T)~~] (Y) forcible sodomy[~~,~~] as described in Section 76-5-403;

[~~(U)~~] (Z) sodomy on a child[~~,~~] as described in Section 76-5-403.1;

[~~(V)~~] (AA) forcible sexual abuse[~~,~~] as described in Section 76-5-404;

[~~(W)~~] (BB) sexual abuse of a child[~~,~~] as described in Section 76-5-404.1[~~, or~~] ;

(CC) aggravated sexual abuse of a child[~~,~~] as described in Section 76-5-404.3;

[~~(X)~~] (DD) aggravated sexual assault[~~,~~] as described in Section 76-5-405;

[~~(Y)~~] (EE) sexual exploitation of a minor[~~,~~] as described in Section 76-5b-201;

[~~(Z)~~] (FF) aggravated sexual exploitation of a minor[~~,~~] as described in Section 76-5b-201.1;

[~~(AA)~~] (GG) sexual exploitation of a vulnerable adult[~~,~~] as described in Section 76-5b-202;

[~~(BB)~~] (HH) [~~aggravated burglary and burglary of a dwelling under Chapter 6, Part 2, Burglary and Criminal Trespass~~] burglary as described in Subsection 76-6-202(3)(b);

(II) aggravated burglary as described in Section 76-6-203;

[~~(CC)~~] (JJ) [~~aggravated robbery and robbery under Chapter 6, Part 3, Robbery~~] robbery as described in Section 76-6-301;

(KK) aggravated robbery as described in Section 76-6-302;

[~~(DD)~~] (LL) theft by extortion [~~under Section 76-6-406 under the circumstances described in~~] as described in Subsection 76-6-406(1)(a)(i) or [~~(ii)~~] (1)(a)(ii);

[~~(EE)~~] (MM) tampering with a witness [~~under Subsection 76-8-508(1)~~] as described in Section 76-8-508;

[~~(FF)~~] (NN) retaliation against a witness, victim, or informant [~~under~~] as described in Section 76-8-508.3;

[~~(GG)~~] (OO) tampering [~~with~~] or retaliating against a juror [~~under~~] as described in Subsection [~~76-8-508.5(2)(c)~~] 76-8-508.5(2)(a)(iii);

[~~(HH)~~] (PP) extortion to dismiss a criminal proceeding [~~under Section 76-8-509 if by any threat or by use of force theft by extortion has been committed under Section 76-6-406 under the circumstances~~] as described in Subsection 76-6-406 (1)(a)(i), (ii), or (ix);

[~~(II)~~] (QQ) possession, use, or removal of explosive, chemical, or incendiary devices [~~under~~] as described in Subsections 76-10-306(3) through (6);

[~~(JJ)~~] (RR) unlawful delivery of explosive, chemical, or incendiary devices [~~under~~] as described in Section 76-10-307;

[~~(KK)~~] (SS) purchase or possession of a dangerous weapon or handgun by a restricted person [~~under~~] as described in Section 76-10-503;

[~~(LL) unlawful discharge of a firearm under Section 76-10-508;~~]

[~~(MM)~~] (TT) aggravated exploitation of prostitution [~~under~~] as described in Subsection 76-10-1306(1)(a);

[~~(NN)~~] (UU) bus hijacking [~~under~~] as described in Section 76-10-1504; and

[~~(OO)~~] (VV) discharging firearms and hurling missiles [~~under~~] as described in Section 76-10-1505; or

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violent felony as defined in this Subsection (1) if committed in this state.

(2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender under this section, the penalty for a:

(a) third degree felony is as if the conviction were for a first degree felony;

(b) second degree felony is as if the conviction were for a first degree felony; or

(c) first degree felony remains the penalty for a first degree penalty except:

(i) the convicted person is not eligible for probation; and

(ii) the Board of Pardons and Parole shall consider that the convicted person is a habitual violent offender as an aggravating factor in determining the length of incarceration.

(3) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice in the information or indictment that the defendant is subject to punishment as a habitual violent offender under this section. Notice shall include the case number, court, and date of conviction or commitment of any case relied upon by the prosecution.

(b) (i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:

(A) the defendant is the person who was convicted or committed;

(B) the defendant was represented by counsel or had waived counsel; or

(C) the defendant's plea was understandingly or voluntarily entered.

(ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.

(4) (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge, of the:

(i) defendant's previous convictions for violent felonies, except as otherwise provided in the Utah Rules of Evidence; or

(ii) allegation against the defendant of being a habitual violent offender.

(b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of being an habitual violent offender by the same jury, if practicable, unless the defendant waives the jury, in which case the allegation shall be tried immediately to the court.

(c) (i) Before or at the time of sentencing the trier of fact shall determine if this section applies.

(ii) The trier of fact shall consider any evidence presented at trial and the prosecution and the defendant shall be afforded an opportunity to present any necessary additional evidence.

(iii) Before sentencing under this section, the trier of fact shall determine whether this section is applicable beyond a reasonable doubt.

(d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the evidence that the defendant was then represented by counsel or had lawfully waived the right to have counsel present, and that the defendant's plea was understandingly and voluntarily entered.

(e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.

(5) (a) The sentencing enhancement provisions of Section 76-3-407 supersede the provisions of this section.

(b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

(6) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302; or

(iv) forcible sexual abuse, Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 18. Section **76-3-406** is amended to read:

76-3-406 . Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.

(1) Notwithstanding Sections 76-3-201 and 77-18-105 and Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, except as provided in Section 76-5-406.5 or Subsection 77-16a-103(6) or (7), probation may not be granted, the execution or imposition of sentence may not be suspended, the court may not enter a judgment for a lower category of offense, and hospitalization may not be ordered, the effect of which would in any way shorten the prison sentence for an individual who commits a capital felony or a first degree felony involving:

(a) [~~Section 76-5-202,~~]aggravated murder as described in Section 76-5-202;

(b) [~~Section 76-5-203,~~]murder as described in Section 76-5-203;

(c) [~~Section 76-5-301.1, child kidnaping~~] child kidnapping as described in Section 76-5-301.1;

(d) [~~Section 76-5-302, aggravated kidnaping~~] aggravated kidnapping as described in Subsection 76-5-302(3)(b);

(e) [~~Section 76-5-402, rape, if the individual is sentenced under~~] rape as described in Subsection 76-5-402(3)(b), (3)(c), or (4);

(f) [~~Section 76-5-402.1,~~]rape of a child as described in Section 76-5-402.1;

(g) [~~Section 76-5-402.2, object rape, if the individual is sentenced under~~] object rape as described in Subsection 76-5-402.2(3)(b), (3)(c), or (4);

(h) [~~Section 76-5-402.3,~~]object rape of a child as described in Section 76-5-402.3;

(i) [~~Section 76-5-403, forcible sodomy, if the individual is sentenced under~~] forcible sodomy as described in Subsection 76-5-403(3)(b), (3)(c), or (4);

(j) [~~Section 76-5-403.1,~~]sodomy on a child as described in Section 76-5-403.1;

(k) [~~Section 76-5-404, forcible sexual abuse, if the individual is sentenced under~~] forcible sexual abuse as described in Subsection 76-5-404(3)(b)(i) or (ii);

(l) [~~Section 76-5-404.3,~~]aggravated sexual abuse of a child as described in Section

76-5-404.3;

(m) [~~Section 76-5-405, ~~]aggravated sexual assault[~~; or~~] as described in Section 76-5-405; or

(n) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).

(2) Except for an offense before the district court in accordance with Section 80-6-502 or 80-6-504, the provisions of this section do not apply if the sentencing court finds that the defendant:

(a) was under 18 years old at the time of the offense; and

(b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.

Section 19. Section **76-5-203** is amended to read:

76-5-203 . Murder -- Penalties-- Affirmative defense and special mitigation -- Separate offenses.

(1) (a) As used in this section, "predicate offense" means:

(i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;

(ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused individual is younger than 18 years old;

(iii) kidnapping under Section 76-5-301;

(iv) child kidnapping under Section 76-5-301.1;

(v) aggravated kidnapping under Section 76-5-302;

(vi) rape under Section 76-5-402;

(vii) rape of a child under Section 76-5-402.1;

(viii) object rape under Section 76-5-402.2;

(ix) object rape of a child under Section 76-5-402.3;

(x) forcible sodomy under Section 76-5-403;

(xi) sodomy upon a child under Section 76-5-403.1;

(xii) forcible sexual abuse under Section 76-5-404;

(xiii) sexual abuse of a child under Section 76-5-404.1;

(xiv) aggravated sexual abuse of a child under Section 76-5-404.3;

(xv) aggravated sexual assault under Section 76-5-405;

(xvi) arson under Section 76-6-102;

(xvii) aggravated arson under Section 76-6-103;

(xviii) burglary under Section 76-6-202;

(xix) aggravated burglary under Section 76-6-203;

(xx) robbery under Section 76-6-301;

(xxi) aggravated robbery under Section 76-6-302;

(xxii) escape [~~or aggravated escape~~]under Section 76-8-309;

(xxiii) aggravated escape under Section 76-8-309.1; or

[~~(xxiii)~~] (xxiv) a felony violation of Section 76-10-508 or 76-10-508.1 regarding discharge of a firearm or dangerous weapon.

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

(2) An actor commits murder if:

(a) the actor intentionally or knowingly causes the death of another individual;

(b) intending to cause serious bodily injury to another individual, the actor commits an act clearly dangerous to human life that causes the death of the other individual;

(c) acting under circumstances evidencing a depraved indifference to human life, the actor knowingly engages in conduct that creates a grave risk of death to another individual and thereby causes the death of the other individual;

(d) (i) the actor is engaged in the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense, or is a party to the predicate offense;

(ii) an individual other than a party described in Section 76-2-202 is killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense; and

(iii) the actor acted with the intent required as an element of the predicate offense;

(e) the actor recklessly causes the death of a peace officer or military service member in uniform while in the commission or attempted commission of:

(i) an assault against a peace officer under Section 76-5-102.4;

(ii) interference with a peace officer while making a lawful arrest under Section 76-8-305 if the actor uses force against the peace officer; or

(iii) an assault against a military service member in uniform under Section 76-5-102.4; or

(f) the actor commits a homicide that would be aggravated murder, but the offense is reduced in accordance with Subsection 76-5-202(4).

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

(ii) A defendant who is convicted of murder shall be sentenced to imprisonment for an indeterminate term of not less than 15 years and which may be for life.

(b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder,

or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall, notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c)(i), enter a judgment of conviction for attempted manslaughter.

(4) (a) It is an affirmative defense to a charge of murder or attempted murder that the defendant caused the death of another individual or attempted to cause the death of another individual under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

(c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall enter a judgment of conviction for attempted manslaughter.

(5) (a) Any predicate offense that constitutes a separate offense does not merge with the crime of murder.

(b) An actor who is convicted of murder, based on a predicate offense that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Section 20. Section **76-5-404.1** is amended to read:

76-5-404.1 . Sexual abuse of a child -- Penalties -- Limitations.

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

(i) "Adult" means an individual 18 years old or older.

(ii) "Child" means an individual younger than 14 years old.

(iii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

(iv) "Position of special trust" means:

(A) an adoptive parent;

(B) an athletic manager who is an adult;

(C) an aunt;

(D) a babysitter;

(E) a coach;

(F) a cohabitant of a parent if the cohabitant is an adult;

(G) a counselor;

(H) a doctor or physician;

(I) an employer;

(J) a foster parent;

(K) a grandparent;

(L) a legal guardian;

(M) a natural parent;

(N) a recreational leader who is an adult;

(O) a religious leader;

(P) a sibling or a stepsibling who is an adult;

(Q) a scout leader who is an adult;

(R) a stepparent;

(S) a teacher or any other individual employed by or volunteering at a public or private elementary school or secondary school, and who is 18 years old or older;

(T) an instructor, professor, or teaching assistant at a public or private institution of higher education;

(U) an uncle;

(V) a youth leader who is an adult; or

(W) any individual in a position of authority, other than those individuals listed in Subsections (1)(a)(iv)(A) through (V), which enables the individual to exercise undue influence over the child.

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

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a child if the actor:

(i) (A) touches the anus, buttocks, pubic area, or genitalia of any child;

(B) touches the breast of a female child; or

(C) otherwise takes indecent liberties with a child; and

(ii) the actor's conduct is with intent to:

(A) cause substantial emotional or bodily pain to any individual; or

(B) to arouse or gratify the sexual desire of any individual.

(b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) A violation of Subsection (2) is a second degree felony.

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape of a child, in violation of Section 76-5-402.1;

(b) object rape of a child, in violation of Section 76-5-402.3;

(c) sodomy on a child, in violation of Section 76-5-403.1; or

(d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).

[~~(5) Imprisonment under this section is mandatory in accordance with Section 76-3-406.~~]

Section 21. Section **76-6-513** is amended to read:

76-6-513 . Unlawful dealing of property by a fiduciary.

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

(i) "Fiduciary" means the same as that term is defined in Section 22-1-1.

(ii) "Financial institution" means "depository institution" and "trust company" as defined in Section 7-1-103.

(iii) "Governmental entity" is as defined in Section 63G-7-102.

(iv) "Person" does not include a financial institution whose fiduciary functions are supervised by the Department of Financial Institutions or a federal regulatory agency.

(v) "Property" means the same as that term is defined in Section 76-6-401.

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

(2) An actor commits unlawfully dealing with property by a fiduciary if the actor:

(a) deals with property:

(i) that has been entrusted to the actor as a fiduciary, or property of a governmental entity, public money, or of a financial institution; and

(ii) in a manner which:

(A) the actor knows is a violation of the actor's duty; and

(B) involves substantial risk of loss or detriment to the property owner or to a person for whose benefit the property was entrusted; or

(b) acting as a fiduciary pledges:

(i) as collateral for a personal loan, or as collateral for the benefit of some party, other than the owner or the person for whose benefit the property was entrusted, the property that has been entrusted to the fiduciary; and

(ii) without permission of the owner of the property or some other authorized person.

(3) (a) A violation of Subsection (2)(a) is:

(i) a second degree felony if the:

(A) value of the property is or exceeds $5,000; or

(B) property is stolen from the person of another;

(ii) a third degree felony if:

(A) the value of the property is or exceeds $1,500 but is less than $5,000;

(B) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(I) any theft, any robbery, or any burglary with intent to commit theft;

(II) any offense under Part 5, Fraud; or

(III) any attempt to commit any offense under Subsection (3)(a)(ii)(B)(I) or (II); or

[~~(C) the value of property is or exceeds $500 but is less than $1,500; or~~]

[~~(D)~~] (C) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(iii) a class A misdemeanor if:

(A) the value of the property stolen is or exceeds $500 but is less than $1,500; or

(B) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(iv) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(a)(iii)(B).

(b) A violation of Subsection (2)(b) is:

(i) a second degree felony if the value of the property wrongfully pledged is or exceeds $5,000;

(ii) a third degree felony if the value of the property wrongfully pledged is or exceeds $1,500 but is less than $5,000;

(iii) a class A misdemeanor if the value of the property is or exceeds $500, but is less than $1,500 or the actor has been twice before convicted of theft, robbery, burglary with intent to commit theft, or unlawful dealing with property by a fiduciary; or

(iv) a class B misdemeanor if the value of the property is less than $500.

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

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Section 22. Section **76-8-101** is amended to read:

76-8-101 . Definitions.

As used in this chapter:

[~~(1) "Candidate for electoral office" means a person who files as a candidate for office under the laws of the state.~~]

[~~(2)~~] (1) "Party official" means [~~a person~~] an individual holding any post in a political party whether by election, appointment, or otherwise.

[~~(3)~~] (2) "Peace officer" means an employee of a police or law enforcement agency that is part of or administered by the state or [~~any of its political subdivisions~~] a political subdivision of the state, and whose duties consist primarily of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or [~~any of its political subdivisions~~] a political subdivision of the state.

[~~(4)~~] (3) (a) "Pecuniary benefit" means [~~any~~] an advantage in the form of money, property, commercial interest, or anything else, the primary significance of which is economic gain.

(b) "Pecuniary benefit" does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.

[~~(5)~~] (4) (a) "Public property" means real or personal property that is owned, held, or

managed by a public entity.

(b) "Public property" includes real or personal property that is owned, held, or managed by a public entity after the real or personal property is transferred by the public entity to an independent contractor of the public entity.

(c) "Public property" remains public property while in the possession of an independent contractor of a public entity for the purpose of providing a program or service for, or on behalf of, the public entity.

Section 23. Section **76-8-102** is amended to read:

76-8-102 . Campaign contributions not prohibited.

(1) Nothing in this chapter shall be construed to prohibit the giving or receiving of campaign contributions made for the purpose of defraying the costs of a political campaign.

(2) [~~-~~]No person shall be convicted of an offense solely on the evidence that a campaign contribution was made and that an appointment or nomination was subsequently made by the person to whose campaign or political party the contribution was made.

Section 24. Section **76-8-103** is amended to read:

76-8-103 . Bribery or offering a bribe.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of~~] An actor commits bribery or offering a bribe if [~~that person~~] the actor promises, offers, or agrees to give or gives, directly or indirectly, any benefit to another with the purpose or intent to influence an action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion of a public servant, party official, or voter.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the value of the benefit is $1,000 or more; or

(b) a third degree felony if the value of the benefit is less than $1,000.

[~~(2)~~] (4) It is not a defense to a prosecution under this statute that:

(a) the person sought to be influenced was not qualified to act in the desired way, whether because the person had not assumed office, lacked jurisdiction, or for any other reason;

(b) the person sought to be influenced did not act in the desired way; or

(c) the benefit is not conferred, solicited, or accepted until after:

(i) the action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion, has occurred; or

(ii) the public servant ceases to be a public servant.

[~~(3) Bribery or offering a bribe is:~~]

[~~(a) a third degree felony when the value of the benefit asked for, solicited, accepted, or conferred is less than $1,000; and~~]

[~~(b) a second degree felony when the value of the benefit asked for, solicited, accepted, or conferred is $1,000 or more.~~]

Section 25. Section **76-8-104** is amended to read:

76-8-104 . Threat to influence official or political action.

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

(i) "Harm" means any disadvantage or injury, pecuniary or otherwise, including disadvantage or injury to any other person or entity in whose welfare the public servant, party official, or voter is interested.

(ii) "Public servant" does not include a juror.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of a class A misdemeanor if he threatens any harm to a public servant, party official, or voter~~] An actor commits threat to influence official or political action if the actor, with a purpose of influencing [~~his~~] an action, decision, opinion, recommendation, nomination, vote, or other exercise of discretion of a public servant, party official, or voter, threatens harm to:

(a) the public servant, party official, or voter; or

(b) a person or entity in whose welfare the public servant, party official, or voter is interested.

(3) A violation of Subsection (2) is a class A misdemeanor.

[~~(2) As used in this section:~~]

[~~(a) "Harm" means any disadvantage or injury, pecuniary or otherwise, including disadvantage or injury to any other person or entity in whose welfare the public servant, party official, or voter is interested.~~]

[~~(b) "Public servant" does not include jurors.~~]

Section 26. Section **76-8-105** is amended to read:

76-8-105 . Receiving or soliciting bribe or bribery by public servant.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of~~] An actor commits receiving or soliciting a bribe if [~~that person~~] the actor asks for, solicits, accepts, or receives, directly or indirectly, any benefit with the understanding or agreement that the purpose or intent is to influence an action,

decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion, of a public servant, party official, or voter.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the value of the benefit asked for, solicited, accepted, or conferred is more than $1,000; or

(b) a third degree felony if the value of the benefit asked for, solicited, accepted, or conferred is $1,000 or less.

[~~(2)~~] (4) It is not a defense to a prosecution under this statute that:

(a) the person sought to be influenced was not qualified to act in the desired way, whether because the person had not assumed office, lacked jurisdiction, or for any other reason;

(b) the person sought to be influenced did not act in the desired way; or

(c) the benefit is not asked for, conferred, solicited, or accepted until after:

(i) the action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion, has occurred; or

(ii) the public servant ceases to be a public servant.

[~~(3) Receiving or soliciting a bribe is:~~]

[~~(a) a third degree felony when the value of the benefit asked for, solicited, accepted, or conferred is $1,000 or less; and~~]

[~~(b) a second degree felony when the value of the benefit asked for, solicited, accepted, or conferred exceeds $1,000.~~]

Section 27. Section **76-8-106** is amended to read:

76-8-106 . Receiving bribe for endorsement of person as a public servant.

[

~~A person is guilty of a class B misdemeanor if:~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~He~~] An actor commits receiving a bribe for endorsement of a person as a public servant if the actor solicits, accepts, agrees to accept for [~~himself~~] the actor's self, another person, or a political party, money or any other pecuniary benefit as compensation for [~~his~~] the actor's endorsement, nomination, appointment, approval, or disapproval of any person for a position as a public servant or for the advancement of any public servant[~~; or~~] .

[~~(2)~~] (3) [~~He knowingly gives, offers, or promises any pecuniary benefit prohibited by paragraph (1).~~] A violation of Subsection (2) is a class B misdemeanor.

Section 28. Section **76-8-106.1** is enacted to read:

76-8-106.1 . Bribery for endorsement of person as public servant.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits bribery for endorsement of a person as a public servant if the actor knowingly gives, offers, or promises money or any other pecuniary benefit to a person or a political party as compensation for the person's or political party's endorsement, nomination, appointment, approval, or disapproval of any person for a position as a public servant or for the advancement of any public servant.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 29. Section **76-8-107** is amended to read:

76-8-107 . Alteration of proposed legislative bill or resolution.

[~~Every person who~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits alteration of proposed legislative bill or resolution if the actor fraudulently alters the draft of [~~any~~] a bill or resolution [~~which~~] that has been presented to either of the houses composing the Legislature to be passed or adopted, with intent to procure [~~its~~] the proposed legislative bill or resolution being passed or adopted by either house, or certified by the presiding officer of either house in language different from that intended by [~~such~~] either house[~~, is guilty of a felony of the third degree~~].

Section 30. Section **76-8-108** is amended to read:

76-8-108 . Alteration of enrolled legislative bill or resolution.

[~~Every person who~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits alteration of enrolled legislative bill or resolution if the actor fraudulently alters the enrolled copy of [~~any~~] a bill or resolution [~~which~~] that has been passed or adopted by the Legislature with intent to procure [~~it~~] the enrolled bill or resolution to be approved by the governor or certified by the Division of Archives, or printed or published by the printer of statutes, in language different from that in which [~~it~~] the enrolled bill or resolution was passed or adopted by the Legislature[~~, is guilty of a felony of the third degree~~].

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

Section 31. Section **76-8-110** is amended to read:

76-8-110 . Prohibited action by peace officer for collection agency or creditor.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A peace officer may not have any~~] An actor commits prohibited action by peace officer

for collection agency or creditor if the actor:

(a) is a peace officer; and

(b) (i) has an interest in [~~any~~] a collection agency; or[~~ act~~]

(ii) acts as a compensated collection agent for [~~any~~] a creditor or collection agency.

[~~(2)~~] (3) [~~A person that violates this section is guilty of~~] A violation of Subsection (2) is a class C misdemeanor.

Section 32. Section **76-8-201** is amended to read:

76-8-201 . Official misconduct -- Unauthorized acts or failure of duty.

[~~A public servant is guilty of a class B misdemeanor if, ~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits official misconduct based on an unauthorized act or failure of duty if the actor:

(a) is a public servant; and

(b) with an intent to benefit [~~himself~~] the actor or another or to harm another, [~~he~~] the actor knowingly[-] :

(i) commits an unauthorized act [~~which~~] that purports to be an act of [~~his~~] the actor's office[~~,~~] ; or

(ii) [-]knowingly refrains from performing a duty imposed on [~~him~~] the actor by law or clearly inherent in the nature of [~~his~~] the actor's office.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 33. Section **76-8-202** is amended to read:

76-8-202 . Official misconduct concerning inside information.

[

~~A public servant is guilty of a class A misdemeanor if, knowing that official action is contemplated or in reliance on information which he has acquired by virtue of his office or from another public servant, which information has not been made public, he:~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits official misconduct concerning inside information if:

(a) the actor is a public servant; and

(b) knowing that official action is contemplated, or in reliance on information that the actor has acquired by virtue of the actor's office or from another public servant, which information has not been made public, the actor:

(i) acquires or divests [~~himself~~] the actor's self of a pecuniary interest in any property, transaction, or enterprise [~~which~~] that may be affected by such action or

information;

[~~(2)~~] (ii) speculates or wagers on the basis of such action or information; or

[~~(3)~~] (iii) knowingly aids another person to do [~~any of the foregoing~~] an action described in Subsection (2)(b)(i) or (2)(b)(ii).

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 34. Section **76-8-203** is amended to read:

76-8-203 . Unofficial misconduct.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of~~] An actor commits unofficial misconduct if the [~~person~~] actor exercises or attempts to exercise any of the functions of a public office when the [~~person~~] actor:

(a) has not taken and filed the required oath of office;

(b) has failed to execute and file a required bond;

(c) has not been elected or appointed to office;

(d) exercises any of the functions of [~~his~~] the actor's office after [~~his~~] the actor's term has expired and the successor has been elected or appointed and has qualified, or after [~~his~~] the actor's office has been legally removed; or

(e) knowingly[~~-~~] :

(i) withholds or retains from [~~his~~] the actor's successor in office, or other person entitled to possession, the official seal or [~~any records, papers, documents, or other writings~~] a record, paper, document, or other writing appertaining or belonging to [~~his~~] the actor's office[~~ or mutilates or destroys or takes away the same.~~] ; or

(ii) mutilates, destroys, or takes away the official seal or a record, paper, document, or other writing appertaining or belonging to the actor's office.

[~~(2)~~] (3) [~~Unofficial misconduct~~] A violation of Subsection (2) is a class B misdemeanor.

Section 35. Section **76-8-301** is amended to read:

76-8-301 . Interference with public servant.

(1) (a) [~~An individual is guilty of~~] As used in this section, "public servant" does not include a juror.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits interference with a public servant if the [~~individual~~] actor:

(a) uses force, violence, intimidation, or engages in any other unlawful act with a purpose to interfere with a public servant performing or purporting to perform an official function; or

(b) obstructs, hinders, conceals, or prevents the lawful service of any civil or criminal legal process[~~, civil or criminal, by any~~] by a sheriff, constable, deputy sheriff, deputy constable, peace officer, private investigator, or any other person authorized to serve legal process[~~; or~~] .

[~~(c) on property that is owned, operated, or controlled by the state or a political subdivision of the state, willfully denies to a public servant lawful:~~]

[~~(i) freedom of movement;~~]

[~~(ii) use of the property or facilities; or~~]

[~~(iii) entry into or exit from the facilities.~~]

[~~(2) Interference with a public servant:~~]

[~~(a) under Subsection (1)(a) or (b) is a class B misdemeanor; and~~]

[~~(b) under Subsection (1)(c) is a class C misdemeanor.~~]

[~~(3) For purposes of this section, "public servant" does not include jurors.~~]

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 36. Section **76-8-301.2** is enacted to read:

76-8-301.2 . Denial of public servant's use of public property.

(1) (a) As used in this section, "public servant" does not include a juror.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits denial of public servant's use of public property if the actor, on property that is owned, operated, or controlled by the state or a political subdivision of the state, willfully denies to a public servant lawful:

(a) freedom of movement;

(b) use of the property or facility; or

(c) entry into or exit from the facility.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 37. Section **76-8-301.5** is amended to read:

76-8-301.5 . Failure to disclose identity.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of~~] An actor commits failure to disclose identity if, during the period of time that the [~~person~~] actor is lawfully subjected to a stop as described in Section 77-7-15:

(a) a peace officer demands that the [~~person~~] actor disclose the [~~person's~~] actor's name or date of birth;

(b) the demand described in Subsection [~~(1)(a)~~] (2)(a) is reasonably related to the

circumstances justifying the stop;

(c) the disclosure of the [~~person's~~] actor's name or date of birth by the [~~person~~] actor does not present a reasonable danger of self-incrimination in the commission of a crime; and

(d) the [~~person~~] actor fails to disclose the [~~person's~~] actor's name or date of birth.

[~~(2)~~] (3) [~~Failure to disclose identity~~] A violation of Subsection (2) is a class B misdemeanor.

Section 38. Section **76-8-302** is amended to read:

76-8-302 . Picketing or parading in or near court.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of a class B misdemeanor if he~~] An actor commits picketing or parading in or near a court if the actor pickets or parades in or near a building [~~which~~] that houses a court of this state with intent to[~~-~~] :

(a) obstruct access to that court; or[~~- to -~~]

(b) affect the outcome of a case pending before that court.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 39. Section **76-8-303** is amended to read:

76-8-303 . Prevention of Legislature or public servant from meeting or organizing.

[

~~A person is guilty of a felony of the third degree if he intentionally and by force or fraud:~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prevention of Legislature or public servant from meeting or organizing if the actor intentionally and by force or fraud:

(a) [~~Prevents~~] prevents the Legislature, [~~or -~~]either of the houses composing [~~it~~] the Legislature, or any of the members [~~thereof~~] of the Legislature, from meeting or organizing; or

[~~(2)~~] (b) [~~Prevents~~] prevents any other public servant from meeting or organizing to perform a lawful governmental function.

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

Section 40. Section **76-8-305** is amended to read:

76-8-305 . Interference with a peace officer.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of a class B misdemeanor if the person -~~] An actor commits

interference with a peace officer if the actor:

(a) knows, or by the exercise of reasonable care should have known, that a peace officer is seeking to effect a lawful arrest or detention of [~~that person~~] the actor or another [~~person~~] individual; and

(b) [~~-~~]interferes with the arrest or detention by:

[~~(a)~~] (i) use of force or [~~any~~] a weapon;

[~~(b)~~] (ii) refusing to perform [~~any~~] an act required by lawful order:

[~~(i)~~] (A) necessary to effect the arrest or detention; and

[~~(ii)~~] (B) made by a peace officer involved in the arrest or detention; or

[~~(c)~~] (iii) refusing to refrain from performing [~~any~~] an act that would impede the arrest or detention.

[~~(2)~~] (3) A violation of Subsection (2) is a class B misdemeanor.

(4) Recording the actions of a [~~law enforcement~~] peace officer with a camera, mobile phone, or other photographic device, while the peace officer is performing official duties in plain view, does not by itself constitute:

(a) interference with the peace officer;

(b) willful resistance;

(c) disorderly conduct; or

(d) obstruction of justice.

Section 41. Section **76-8-305.5** is amended to read:

76-8-305.5 . Failure to stop at the command of a peace officer.

[

~~A person is guilty of a class A misdemeanor who flees from or otherwise attempts to elude a peace officer:~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits failure to stop at the command of a peace officer if, after the peace officer has issued a verbal or visual command to stop[~~:~~] , the actor flees from or otherwise attempts to elude a peace officer:

[~~(2)~~] (a) for the purpose of avoiding arrest; and

[~~(3)~~] (b) by any means other than a violation of Section 41-6a-210 regarding failure to stop a vehicle at the command of a law enforcement officer.

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 42. Section **76-8-306** is amended to read:

76-8-306 . Obstruction of justice in a criminal investigation or proceeding.

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

(i) (A) "Conduct that constitutes a criminal offense" means conduct that would be punishable as a crime and is separate from a violation of this section.

(B) "Conduct that constitutes a criminal offense" includes:

(I) any violation of a criminal statute or ordinance of this state or a political subdivision of this state, any other state, or any district, possession, or territory of the United States; and

(II) conduct committed by a juvenile that would be a crime if committed by an adult.

(ii) "Juvenile offender" means the same as that term is defined in Section 80-1-102.

(iii) "Official custody" means the same as that term is defined in Section 76-8-309.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~An~~] Except as provided in Subsection (5), an actor commits obstruction of justice in a criminal investigation or proceeding if the actor, with intent to hinder, delay, or prevent the investigation, apprehension, prosecution, conviction, or punishment of any person regarding conduct that constitutes a criminal offense:

(a) provides any person with a weapon;

(b) prevents by force, intimidation, or deception, [~~any~~] a person from performing [~~any~~] an act that might aid in the discovery, apprehension, prosecution, conviction, or punishment of any person;

(c) alters, destroys, conceals, or removes [~~any~~] an item or other thing;

(d) makes, presents, or uses [~~any~~] an item or thing known by the actor to be false;

(e) harbors or conceals a person;

(f) provides a person with transportation, disguise, or other means of avoiding discovery or apprehension;

(g) warns [~~any~~] a person of impending discovery or apprehension;

(h) warns [~~any~~] a person of an order authorizing the interception of wire communications or of a pending application for an order authorizing the interception of wire communications;

(i) conceals information that is not privileged and that concerns the offense, after a judge or magistrate has ordered the actor to provide the information; or

(j) provides false information regarding a suspect, a witness, the conduct constituting an offense, or any other material aspect of the investigation.

[~~(2) (a) As used in this section, "conduct that constitutes a criminal offense" means~~

~~conduct that would be punishable as a crime and is separate from a violation of this section, and includes:~~]

[~~(i) any violation of a criminal statute or ordinance of this state, its political subdivisions, any other state, or any district, possession, or territory of the United States; and~~]

[~~(ii) conduct committed by a juvenile which would be a crime if committed by an adult.~~]

[~~(b) A violation of a criminal statute that is committed in another state, or any district, possession, or territory of the United States, is a:~~]

[~~(i) capital felony if the penalty provided includes death or life imprisonment without parole;~~]

[~~(ii) a first degree felony if the penalty provided includes life imprisonment with parole or a maximum term of imprisonment exceeding 15 years;~~]

[~~(iii) a second degree felony if the penalty provided exceeds five years;~~]

[~~(iv) a third degree felony if the penalty provided includes imprisonment for any period exceeding one year; and~~]

[~~(v) a misdemeanor if the penalty provided includes imprisonment for any period of one year or less.~~]

(3) [~~Obstruction of justice~~] A violation of Subsection (2) is:

(a) a second degree felony if the conduct [~~which~~] that constitutes an offense would be a capital felony or first degree felony;

(b) a third degree felony if:

(i) the conduct that constitutes an offense would be a second or third degree felony and the actor violates Subsection [~~(1)(b)~~] (2)(b), (c), (d), (e), or (f);

(ii) the conduct that constitutes an offense would be any offense other than a capital or first degree felony and the actor violates Subsection [~~(1)(a)~~] (2)(a);

(iii) the obstruction of justice is presented or committed before a court of law; or

(iv) a violation of Subsection [~~(1)(h)~~] (2)(h); or

(c) a class A misdemeanor for any violation of this section that is not enumerated under Subsection (3)(a) or (b).

(4) It is not a defense that the actor was unaware of the level of penalty for the conduct constituting an offense.

[~~(5) Subsection (1)(c) does not apply to harboring a juvenile offender, as defined in Section 80-1-102, which is governed by Section 76-8-311.5.~~]

[~~(6)~~] (5) (a) Subsection (2) does not apply to harboring or concealing an offender who has escaped from official custody, which is governed by Section 76-8-309.2.

(b) Subsection [~~(1)(b)~~] (2)(b) does not apply to:

[~~(a) tampering with a juror, which is governed by Section 76-8-508.5;~~]

[~~(b)~~] (i) [~~influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, which is governed by~~] threat with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole under Section 76-8-316;

(ii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole under Section 76-8-316.2;

(iii) aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole under Section 76-8-316.4;

(iv) attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole under Section 76-8-316.6;

[~~(c)~~] (v) tampering with a witness [~~or soliciting or receiving a bribe, which is governed by~~] under Section 76-8-508;

[~~(d)~~] (vi) retaliation against a witness, victim, or informant[~~, which is governed by~~] under Section 76-8-508.3; [~~or~~]

(vii) tampering or retaliating against a juror under Section 76-8-508.5;

(viii) receiving or soliciting a bribe as a witness under Section 76-8-508.7; or

[~~(e)~~] (ix) extortion or bribery to dismiss a criminal proceeding[~~, which is governed by~~] under Section 76-8-509.

(c) Subsection (2)(e) does not apply to harboring a juvenile offender, which is governed by Section 76-8-319.

[~~(7) Notwithstanding Subsection (1), (2), or (3), an actor commits a third degree felony if the actor harbors or conceals an offender who has escaped from official custody as defined in Section 76-8-309.~~]

(6) For purposes of Subsection (3), a violation of a criminal statute that is committed in another state, or any district, possession, or territory of the United States, is:

(a) a capital felony if the penalty provided includes death or life imprisonment without

parole;

(b) a first degree felony if the penalty provided includes life imprisonment with parole or a maximum term of imprisonment exceeding 15 years;

(c) a second degree felony if the penalty provided exceeds five years;

(d) a third degree felony if the penalty provided includes imprisonment for any period exceeding one year; or

(e) a misdemeanor if the penalty provided includes imprisonment for any period of one year or less.

Section 43. Section **76-8-306.5** is amended to read:

76-8-306.5 . Obstructing service of a Board of Pardons and Parole warrant or a probationer order to show cause.

[~~A person is guilty of a third degree felony who:~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits obstructing service of a Board of Pardons and Parole warrant or a probationer order to show cause if the actor:

(a) knows that[~~-~~] :

(i) the Board of Pardons and Parole has issued a warrant for a parolee; or[~~ that~~]

(ii) a court has issued an order to show cause regarding a defendant's violation of the terms of probation; and

[~~(2)~~] (b) [~~(a)~~] (i) harbors or conceals the parolee or probationer;

[~~(b)~~] (ii) provides the parolee or probationer with transportation, disguise, or other means or assistance to avoid discovery; or

[~~(c)~~] (iii) warns the parolee or probationer of [~~his~~] the parolee's or probationer's impending discovery.

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

Section 44. Section **76-8-307** is amended to read:

76-8-307 . Failure to aid a peace officer.

[~~A person is guilty of a class B misdemeanor~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits failure to aid a peace officer if, upon command by a peace officer identifiable or identified by [~~him~~] the peace officer as such, [~~he~~] the actor unreasonably fails or refuses to aid the peace officer in effecting an arrest or in preventing the commission of any offense by another person.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 45. Section **76-8-308** is amended to read:

76-8-308 . Acceptance of bribe or bribery to prevent criminal prosecution.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of a class A misdemeanor if he~~] An actor commits acceptance of bribe or bribery to prevent criminal prosecution if the actor:

(a) solicits, accepts, or agrees to accept any benefit as consideration for [~~his~~] the actor's refraining from initiating or aiding in a criminal prosecution; or

(b) confers, offers, or agrees to confer any benefit upon [~~another~~] a person as consideration for the person refraining from initiating or aiding in a criminal prosecution.

(3) A violation of Subsection (2) is a class A misdemeanor.

[~~(2)~~] (4) It is an affirmative defense that the value of the benefit did not exceed an amount [~~which~~] that the actor believed to be due as restitution or indemnification for the loss caused or to be caused by the offense.

Section 46. Section **76-8-309** is amended to read:

76-8-309 . Escape.

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

(i) "Confinement" means a prisoner is:

(A) housed in a state prison or another facility pursuant to a contract with the Utah Department of Corrections after being sentenced and committed and the sentence has not been terminated or voided or the prisoner is not on parole;

(B) lawfully detained in a county jail prior to trial or sentencing or housed in a county jail after sentencing and commitment and the sentence has not been terminated or voided or the prisoner is not on parole; or

(C) lawfully detained following arrest.

(ii) "Confinement in a state prison" means that an individual:

(A) is in prehearing custody after arrest for parole violation;

(B) is being housed in a county jail, after felony commitment, pursuant to a contract with the Department of Corrections; or

(C) is being transported as a prisoner in the state prison by a correctional officer.

(iii) "Escape" is considered to be a continuing activity commencing with the conception of the design to escape and continuing until the escaping prisoner is returned to official custody or the prisoner's attempt to escape is thwarted or

abandoned.

(iv) "Lawful authorization" does not include authorization to leave official custody that is obtained by a prisoner by means of deceit, fraud, or other artifice.

(v) "Official custody" means:

(A) arrest, whether with or without a warrant;

(B) confinement in a state prison, jail, or institution for secure confinement of juvenile offenders;

(C) released from a prison or jail for work release or home visit subject to a designated time for return; or

(D) any confinement pursuant to an order of a court or sentenced and committed and the sentence has not been terminated or voided or the prisoner is not on parole.

(vi) "Prisoner" means any person who is in official custody and includes persons under trusty status.

(vii) "Volunteer" means a person who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

[~~(a)~~] (2) [~~(i) A prisoner is guilty of escape if the prisoner~~] An actor commits escape if the actor:

(a) (i) is a prisoner; and

(ii) leaves official custody without lawful authorization[~~.~~] ; or

(b) (i) is convicted as a party to an offense under this section, as defined in Section 76-2-202; and

(ii) is an employee at or a volunteer of:

(A) a law enforcement agency, the Department of Corrections, a county or district attorney's office, the Office of the Attorney General, the Board of Pardons and Parole; or

(B) a court, the Judicial Council, the Administrative Office of the Courts, or a similar administrative unit in the judicial branch of government.

[~~(ii) If a prisoner obtains authorization to leave official custody by means of deceit, fraud, or other artifice, the prisoner has not received lawful authorization.~~]

[~~(b)~~] (3) (a) [~~Escape under this Subsection (1) is a~~] Except as provided by Subsection (3)(b) or Section 76-8-309.1, a violation of Subsection (2) is a third degree felony[

~~except as provided under Subsection (1)(c)~~].

[~~(c)~~] (b) [~~Escape under this Subsection (1)~~] Except as provided by Section 76-8-309.1, a violation of Subsection (2) is a second degree felony if:

(i) the actor escapes [~~from~~] confinement in a state prison;[~~ or~~]

(ii) the actor violates Subsection (2)(b); or

(iii) the prisoner left official custody by failing to return from work release or home visit by the time designated for return.

[~~(ii) (A) the actor is convicted as a party to the offense, as defined in Section 76-2-202; and~~]

[~~(B) the actor is an employee at or a volunteer of a law enforcement agency, the Department of Corrections, a county or district attorney's office, the office of the state attorney general, the Board of Pardons and Parole, or the courts, the Judicial Council, the Administrative Office of the Courts, or similar administrative units in the judicial branch of government.~~]

[~~(2) (a) A prisoner is guilty of aggravated escape if in the commission of an escape the prisoner uses a dangerous weapon, as defined in Section 76-1-101.5, or causes serious bodily injury to another.~~]

[~~(b) Aggravated escape is a first degree felony.~~]

[~~(3)~~] (4) [~~Any prison term imposed upon a prisoner for escape under this section shall run consecutively with~~] A court sentencing an actor for a violation of this section shall impose a consecutive sentence to any other sentence the actor is either serving or ordered to serve.

[~~(4) For the purposes of this section:~~]

[~~(a) "Confinement" means the prisoner is:~~]

[~~(i) housed in a state prison or any other facility pursuant to a contract with the Utah Department of Corrections after being sentenced and committed and the sentence has not been terminated or voided or the prisoner is not on parole;~~]

[~~(ii) lawfully detained in a county jail prior to trial or sentencing or housed in a county jail after sentencing and commitment and the sentence has not been terminated or voided or the prisoner is not on parole; or~~]

[~~(iii) lawfully detained following arrest.~~]

[~~(b) "Escape" is considered to be a continuing activity commencing with the conception of the design to escape and continuing until the escaping prisoner is returned to official custody or the prisoner's attempt to escape is thwarted or abandoned.~~]

[~~(c) "Official custody" means arrest, whether with or without warrant, or confinement in a state prison, jail, institution for secure confinement of juvenile offenders, or any confinement pursuant to an order of the court or sentenced and committed and the sentence has not been terminated or voided or the prisoner is not on parole. A person is considered confined in the state prison if the person:~~]

[~~(i) without authority fails to return to the person's place of confinement from work release or home visit by the time designated for return;~~]

[~~(ii) is in prehearing custody after arrest for parole violation;~~]

[~~(iii) is being housed in a county jail, after felony commitment, pursuant to a contract with the Department of Corrections; or~~]

[~~(iv) is being transported as a prisoner in the state prison by correctional officers.~~]

[~~(d) "Prisoner" means any person who is in official custody and includes persons under trusty status.~~]

[~~(e) "Volunteer" means any person who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.~~]

Section 47. Section **76-8-309.1** is enacted to read:

76-8-309.1 . Aggravated escape.

(1) (a) As used in this section, "escape" means an offense under Section 76-8-309.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits aggravated escape if, during the course of the commission of an escape, the actor:

(a) uses a dangerous weapon; or

(b) causes serious bodily injury to another.

(3) A violation of Subsection (2) is a first degree felony.

(4) A court sentencing an actor for a violation of this section shall impose a consecutive sentence to any other sentence the actor is either serving or ordered to serve.

Section 48. Section **76-8-309.2** is enacted to read:

76-8-309.2 . Harboring or concealing an offender who has escaped from official custody.

(1) (a) As used in this section, "official custody" means the same as that term is defined in Section 76-8-309.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits harboring or concealing an offender who has escaped from official custody if the actor harbors or conceals an offender who has escaped from official

custody.

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

Section 49. Section **76-8-311.1** is amended to read:

76-8-311.1 . Establishment of secure areas -- Items prohibited -- References to penalty provisions.

(1) [~~In addition to the definitions in Section 76-10-501, as~~]

(a) As used in this section:

[~~(a)~~] (i) "Correctional facility" [~~has the same meaning as~~] means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

[~~(b)~~] (iii) "Explosive" [~~has the same meaning as defined for~~] means the same as the term "explosive, chemical, or incendiary device" defined in Section 76-10-306.

(iv) "Firearm" means the same as that term is defined in Section 76-10-501.

[~~(c)~~] (v) "Law enforcement facility" means a facility [~~which~~] that is owned, leased, or operated by a law enforcement agency.

[~~(d)~~] (vi) "Mental health facility" [~~has the same meaning as~~] means the same as that term is defined in Section 26B-5-301.

[~~(e)~~] (vii) [~~(i)~~] (A) "Secure area" means [~~any~~] an area created under this section into which certain persons are restricted from transporting [~~any~~] a firearm or other dangerous weapon, ammunition,[~~, dangerous weapon,~~] or explosive.

[~~(ii)~~] (B) A "secure area" may not include any area normally accessible to the public.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) (a) [~~A person in charge of the~~] The State Tax Commission or a correctional, law enforcement, or mental health facility may establish secure areas within the facility and may prohibit or control by rule any firearm or other dangerous weapon, ammunition, [~~dangerous weapon, ~~]or explosive.

(b) Subsections (2)(a), (3), (4), [~~(5), and (6)~~] and (5) apply to a higher education secure area hearing [~~rooms~~] room referred to in Subsections 53B-3-103(2)(a)(ii) and (b).

(3) [~~At~~] An entity that creates a secure area under this section shall ensure that at least one notice [~~shall be~~] is prominently displayed at each entrance to [~~an~~] the secure area in which a firearm, ammunition, dangerous weapon, or explosive is restricted.

(4) (a) [~~Provisions shall be made to~~] An entity that creates a secure area under this section shall provide a secure weapons storage area so that [~~persons~~] an individual

entering the secure area may store [~~their weapons prior to~~] the individual's weapon before entering the secure area.

(b) The entity operating the facility shall be responsible for [~~weapons~~] a weapon while [~~they are~~] the weapon is stored in the storage area described in Subsection (4)(a).

[~~(5) It is a defense to any prosecution under this section that the accused, in committing the act made criminal by this section, acted in conformity with the facility's rule or policy established pursuant to this section.~~]

[~~(6)~~] (5) (a) [~~Any person who knowingly or intentionally transports into a secure area of a facility any firearm, ammunition, or dangerous weapon is guilty of a third degree felony~~] An actor who transports a firearm or other dangerous weapon or ammunition into a secure area created under this section or a higher education secure area hearing room created under this section may be punished under Section 76-8-311.2.

(b) [~~Any person violates Section 76-10-306~~] An actor who knowingly or intentionally transports, possesses, distributes, or sells [~~any~~] an explosive in a secure area [~~of a facility~~] or a higher education secure area hearing room created under this section may be punished under Section 76-10-306.

(c) It is a defense to a prosecution related to this section that the actor acted in conformity with the facility's rule or policy established pursuant to this section.

Section 50. Section **76-8-311.2** is enacted to read:

76-8-311.2 . Prohibited dangerous weapon or ammunition in a secure area.

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

(iii) "Firearm" means the same as that term is defined in Section 76-10-501.

(iv) "Higher education secure area" means a higher education secure area hearing room created under Section 76-8-311.1.

(v) "Law enforcement facility" means the same as that term is defined in Section 76-8-311.1.

(vi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prohibited dangerous weapon or ammunition in a secure area if the actor knowingly or intentionally transports a firearm or other dangerous weapon or ammunition into:

(a) a correctional facility;

(b) a secure area created by the State Tax Commission;

(c) a secure area in a law enforcement facility or a mental health facility; or

(d) a higher education secure area.

(3) Except as provided in Section 76-8-311.4, 76-8-311.6, or 76-8-311.7, a violation of Subsection (2) is a third degree felony.

(4) It is a defense to a prosecution under this section that the actor acted in conformity with the facility's rule or policy established under Section 76-8-311.1.

Section 51. Section **76-8-311.3** is amended to read:

76-8-311.3 . Establishment of prohibited item policy in a correctional or mental health facility -- Reference to penalty provisions -- Exceptions -- Rulemaking.

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

[~~(a) "Contraband" means any item not specifically prohibited for possession by offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.~~]

[~~(b)~~] (i) "Controlled substance" means [~~any~~] a substance defined as a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

[~~(c)~~] (ii) "Correctional facility" means:

[~~(i)~~] (A) [~~any~~] a facility operated by or contracting with the Department of Corrections to house [~~offenders~~] an offender in either a secure or nonsecure setting;

[~~(ii)~~] (B) [~~any~~] a facility operated by a municipality or a county to house or detain [~~criminal offenders~~] a criminal offender;

[~~(iii)~~] (C) [~~any~~] a juvenile detention facility; [~~and~~] or

[~~(iv)~~] (D) [~~any~~] a building or grounds appurtenant to [~~the~~] a facility or [~~lands~~] land granted to the state, municipality, or county for use as a correctional facility.

[~~(d)~~] (iii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

(iv) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(v) "Firearm" means the same as that term is defined in Section 76-10-501.

[~~(e)~~] (vi) "Medicine" means [~~any~~] a prescription drug as defined in Title 58, Chapter 17b, Pharmacy Practice Act, but does not include [~~any~~] a controlled [~~substances~~] substance as defined in Title 58, Chapter 37, Utah Controlled Substances Act.

[~~(f)~~] (vii) "Mental health facility" means the same as that term is defined in Section 26B-5-301.

[~~(g)~~] (viii) "Nicotine product" means the same as that term is defined in Section 76-10-101.

[~~(h)~~] (ix) "Offender" means [~~a person~~] an individual in custody at a correctional facility.

[~~(i)~~] (x) "Secure area" means the same as that term is defined in Section 76-8-311.1.

[~~(j)~~] (xi) "Tobacco product" means the same as that term is defined in Section 76-10-101.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) Notwithstanding Section 76-10-500, a correctional facility or a mental health facility may provide by rule that no firearm, ammunition, dangerous weapon, implement of escape, explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any quantity may be:

(a) transported to or [~~upon~~] within a correctional facility or a mental health facility;

(b) sold or given away at [~~any~~] a correctional facility or a mental health facility;

(c) given to or used by [~~any~~] an offender at a correctional facility or a mental health facility; or

(d) knowingly or intentionally possessed at a correctional facility or a mental health facility.

(3) It is a defense to [~~any~~] a prosecution [~~under~~] related to this section [~~if the accused in~~] that the actor, in committing the act made criminal by this section with respect to:

(a) a correctional facility operated by the Department of Corrections, acted in conformity with departmental rule or policy;

(b) a correctional facility operated by a municipality, acted in conformity with the policy of the municipality;

(c) a correctional facility operated by a county, acted in conformity with the policy of the county; or

(d) a mental health facility, acted in conformity with the policy of the mental health facility.

[~~(4) (a) An individual who transports to or upon a correctional facility, or into a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape with intent to provide or sell it to any offender, is guilty of a second degree felony.~~]

[~~(b) An individual who provides or sells to any offender at a correctional facility, or any detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a second degree felony.~~]

[~~(c) An offender who possesses at a correctional facility, or a detainee who possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a second degree felony.~~]

[~~(d) An individual who, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses at a correctional facility or a secure area of a mental health facility any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a third degree felony.~~]

[~~(e) An individual violates Section 76-10-306 who knowingly or intentionally transports, possesses, distributes, or sells any explosive in a correctional facility or mental health facility.~~]

[~~(5) (a) An individual is guilty of a third degree felony who, without the permission of the authority operating the correctional facility or secure area of a mental health facility, knowingly transports to or upon a correctional facility or into a secure area of a mental health facility any:~~]

[~~(i) spirituous or fermented liquor;~~]

[~~(ii) medicine, whether or not lawfully prescribed for the offender; or~~]

[~~(iii) poison in any quantity.~~]

[~~(b) An individual is guilty of a third degree felony who knowingly violates correctional or mental health facility policy or rule by providing or selling to any offender at a correctional facility or detainee within a secure area of a mental health facility any:~~]

[~~(i) spirituous or fermented liquor;~~]

[~~(ii) medicine, whether or not lawfully prescribed for the offender; or~~]

[~~(iii) poison in any quantity.~~]

[~~(c) An inmate is guilty of a third degree felony who, in violation of correctional or mental health facility policy or rule, possesses at a correctional facility or in a secure area of a mental health facility any:~~]

[~~(i) spirituous or fermented liquor;~~]

[~~(ii) medicine, other than medicine provided by the facility's health care providers in compliance with facility policy; or~~]

[~~(iii) poison in any quantity.~~]

[~~(d) An individual is guilty of a class A misdemeanor who, with the intent to directly or~~

~~indirectly provide or sell any tobacco product, electronic cigarette product, or nicotine product to an offender, directly or indirectly:~~]

[~~(i) transports, delivers, or distributes any tobacco product, electronic cigarette product, or nicotine product to an offender or on the grounds of any correctional facility;~~]

[~~(ii) solicits, requests, commands, coerces, encourages, or intentionally aids another person to transport any tobacco product, electronic cigarette product, or nicotine product to an offender or on any correctional facility, if the person is acting with the mental state required for the commission of an offense; or~~]

[~~(iii) facilitates, arranges, or causes the transport of any tobacco product, electronic cigarette product, or nicotine product in violation of this section to an offender or on the grounds of any correctional facility.~~]

[~~(c) An individual is guilty of a class A misdemeanor who, without the permission of the authority operating the correctional or mental health facility, fails to declare or knowingly possesses at a correctional facility or in a secure area of a mental health facility any:~~]

[~~(i) spirituous or fermented liquor;~~]

[~~(ii) medicine; or~~]

[~~(iii) poison in any quantity.~~]

[~~(f) (i) Except as provided in Subsection (5)(f)(ii), an individual is guilty of a class B misdemeanor who, without the permission of the authority operating the correctional facility, knowingly engages in any activity that would facilitate the possession of any contraband by an offender in a correctional facility.~~]

[~~(ii) The provisions of Subsection (5)(d) regarding any tobacco product, electronic cigarette product, or nicotine product take precedence over this Subsection (5)(f).~~]

[~~(g)~~] (4) (a) Except as provided by Subsection (4)(b) or (4)(c), an actor may be charged under Section 76-8-311.4, 76-8-311.6, 76-8-311.7, 76-8-311.8, 76-8-311.9, or 76-8-311.10 for a violation of a policy or rule created under this section.

(b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an explosive in a correctional facility or a mental health facility may be punished under Section 76-10-306.

(c) The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be charged under Title 58, Chapter 37, Utah Controlled Substances Act.

[~~(6) The possession, distribution, or use of a controlled substance at a correctional facility~~

~~or in a secure area of a mental health facility shall be prosecuted in accordance with Title 58, Chapter 37, Utah Controlled Substances Act.~~]

(5) Exemptions may be granted for worship for Native American inmates pursuant to Section 64-13-40.

[~~(7)~~] (6) The [~~department~~] Department of Corrections shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines for providing written notice to visitors that providing any tobacco product, electronic cigarette product, or nicotine product to offenders is a class A misdemeanor.

Section 52. Section **76-8-311.4** is enacted to read:

76-8-311.4 . Prohibited item in correctional or mental health facility for use by offender or detainee.

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

(v) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prohibited item in correctional or mental health facility for use by offender or detainee if the actor:

(a) transports a dangerous weapon, ammunition, or implement of escape to or within a correctional facility, or into a secure area of a mental health facility, with the intent to provide or sell to an offender or detainee the dangerous weapon, ammunition, or implement of escape; or

(b) provides or sells a dangerous weapon, ammunition, or implement of escape to:

(i) an offender at a correctional facility; or

(ii) a detainee at a secure area of a mental health facility.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a second degree felony.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 53. Section **76-8-311.6** is enacted to read:

76-8-311.6 . Possession of prohibited item by offender or detainee in correctional

or mental health facility.

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

(v) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits possession of prohibited item by offender or detainee in correctional or mental health facility if the actor:

(a) (i) is an offender at a correctional facility; or

(ii) is a detainee at a mental health facility; and

(b) possesses a dangerous weapon, ammunition, or an implement of escape.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a second degree felony.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 54. Section **76-8-311.7** is enacted to read:

76-8-311.7 . Possession of prohibited item in correctional facility or secure area of mental health facility.

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits possession of prohibited item in correctional facility or secure area of mental health facility if the actor, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses a dangerous weapon, ammunition, or implement of escape at a correctional facility or in a secure area of a mental health facility.

(3) Except as provided in Section 76-8-311.6 or Subsection (4), a violation of Subsection (2) is a third degree felony.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 55. Section **76-8-311.8** is enacted to read:

76-8-311.8 . Prohibited substance in correctional or mental health facility.

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Medicine" means the same as that term is defined in Section 76-8-311.3.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

(v) "Prohibited substance" means:

(A) spirituous or fermented liquor;

(B) medicine, whether or not lawfully prescribed for an offender or a detainee; or

(C) poison in any quantity.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prohibited substance in a correctional or mental health facility if the actor:

(a) without the permission of the authority operating the correctional facility or secure area of a mental health facility:

(i) knowingly transports a prohibited substance to or within a correctional facility or into a secure area of a mental health facility; or

(ii) fails to declare or knowingly possesses a prohibited substance at a correctional facility or in a secure area of a mental health facility;

(b) knowingly violates correctional or mental health facility policy or rule by providing or selling a prohibited substance to an offender at a correctional facility or a detainee within a secure area of a mental health facility; or

(c) (i) is a detainee in a mental health facility or an offender; and

(ii) in violation of correctional or mental health facility policy or rule, possesses at a correctional facility or in a secure area of a mental health facility a prohibited substance other than medicine provided by the facility's health care providers in compliance with facility policy.

(3) (a) Except as provided in Subsection (4), a violation of Subsection (2)(a)(i), (2)(b),

or (2)(c) is a third degree felony.

(b) Except as provided in Subsection (4), a violation of Subsection (2)(a)(ii) is a class A misdemeanor.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 56. Section **76-8-311.9** is enacted to read:

76-8-311.9 . Prohibited tobacco, electronic cigarette, or nicotine product in a correctional facility.

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(iii) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

(v) "Tobacco product" means the same as that term is defined in Section 76-10-101.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prohibited tobacco, electronic cigarette, or nicotine product in a correctional facility if the actor, with the intent to directly or indirectly provide or sell a tobacco product, electronic cigarette product, or nicotine product to an offender, directly or indirectly:

(a) transports, delivers, or distributes a tobacco product, electronic cigarette product, or nicotine product to an offender or on the grounds of a correctional facility;

(b) solicits, requests, commands, coerces, encourages, or intentionally aids another individual to transport a tobacco product, electronic cigarette product, or nicotine product to an offender or on the grounds of a correctional facility, if the other individual is acting with the mental state required for the commission of an offense; or

(c) facilitates, arranges, or causes the transport of a tobacco product, electronic cigarette product, or nicotine product in violation of this section or Section 76-8-311.3 to an offender or on the grounds of a correctional facility.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a class A misdemeanor.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

(5) In accordance with Section 76-10-311.3, the Department of Corrections shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish

guidelines for providing written notice to visitors that providing a tobacco product, electronic cigarette product, or nicotine product to an offender is a class A misdemeanor.

Section 57. Section **76-8-311.10** is enacted to read:

76-8-311.10 . Possession of contraband in a correctional facility.

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

(i) "Contraband" means an item not specifically prohibited for possession by an offender under this section or Section 76-8-311.3, 76-8-311.4, 76-8-311.6, 76-8-311.7, 76-8-311.8, or 76-8-311.9.

(ii) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits possession of contraband in a correctional facility if the actor, without the permission of the authority operating a correctional facility, knowingly engages in an activity that would facilitate the possession of contraband by an offender in the correctional facility.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a class B misdemeanor.

(4) (a) The possession, distribution, or use of a controlled substance at a correctional facility shall be prosecuted in accordance with Title 58, Chapter 37, Utah Controlled Substances Act.

(b) The provisions of Section 76-8-311.9 take precedence over this section.

(c) The defenses provided in Section 76-8-311.3 apply to this section.

Section 58. Section **76-8-312** is amended to read:

76-8-312 . Unlawful absence after pretrial release.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of an offense when having~~] An actor commits unlawful absence after pretrial release if the actor:

(a) has been [~~released on bail or on his own recognizance~~] granted pretrial release by court order or by other lawful authority upon condition that [~~he~~] the actor subsequently appear personally upon a charge of an offense[~~, he~~] ; and

(b) fails without just cause to appear at the time and place [~~which~~] that have been lawfully designated for [~~his~~] the actor's appearance.

[~~(2) An offense under this section is a felony of the third degree when the offense charged is a felony, a class B misdemeanor when the offense charged is a misdemeanor, and an~~

~~infraction when the offense charged is an infraction.~~]

(3) A violation of Subsection (2) is:

(a) a third degree felony if the offense for which the actor failed to appear is a felony;

(b) a class B misdemeanor if the offense for which the actor failed to appear is a misdemeanor; or

(c) an infraction if the offense for which the actor failed to appear is an infraction.

Section 59. Section **76-8-313** is amended to read:

76-8-313 . Threatened or attempted assault on an elected official.

(1) (a) As used in this section, "elected official" means:

(i) an elected official of the state, county, or city;

(ii) an immediate family member of an individual described in Subsection (1)(a)(i);

(iii) a temporary judge appointed to fill a vacant judicial position;

(iv) a judge not yet retained by a retention election;

(v) a member of a school board; or

(vi) an individual appointed to fill a vacant position of an individual described in Subsection (1)(a)(i).

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person~~] An actor commits threatened or attempted assault on an elected official [~~when he~~] if the actor attempts or threatens, irrespective of a showing of immediate force or violence, to inflict bodily injury [~~to the~~] on an elected official with the intent to impede, intimidate, or interfere with the elected official in the performance of [~~his~~] the elected official's official duties or with the intent to retaliate against the elected official because of the performance of [~~his~~] the elected official's official duties.

(3) (a) Except as provided by Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if:

(i) the actor attempts to inflict bodily injury; or

(ii) the elected official receives bodily injury.

Section 60. Section **76-8-316** is amended to read:

76-8-316 . Threat with intent to impede, intimidate, interfere, or retaliate against a judge or member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole.

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

[~~(a)~~] (i) "Board member" means an appointed member of the Board of Pardons and

Parole.

[~~(b)~~] (ii) "Family member" means [~~parents,~~] a parent, spouse, surviving spouse, [~~children, and siblings~~] child, or sibling of a judge or board member.

[~~(c)~~] (iii) "Judge" means[~~judges of all courts of record and courts not of record and court commissioners.~~] :

(A) a judge of a court of record;

(B) a judge of a court not of record; or

(C) a court commissioner.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of a third degree felony if the person~~] An actor commits threat with intent to impede, intimidate, interfere, or retaliate against a judge, board member, or family member if the actor threatens to assault, kidnap, or murder a judge, [~~a family member of a judge, ~~]a board member, or a family member[~~ of a board member~~] with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties or with the intent to retaliate against the judge or board member on account of the performance of those official duties.

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

[~~(3) A person is guilty of a second degree felony if the person commits an assault on a judge, a family member of a judge, a board member, or a family member of a board member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties, or with the intent to retaliate against the judge or board member on account of the performance of those official duties.~~]

[~~(4) A person is guilty of a first degree felony if the person commits aggravated assault on a judge, a family member of a judge, a board member, or a family member of a board member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties or with the intent to retaliate against the judge or board member on account of the performance of those official duties.~~]

[~~(5) A person is guilty of a first degree felony if the person commits attempted murder on a family member of a judge or a family member of a board member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties or with the intent to~~

~~retaliate against the judge or board member on account of the performance of those official duties.~~]

[~~(6) A member of the Board of Pardons and Parole is an executive officer for purposes of Subsection 76-5-202(2)(a)(xiii).~~]

Section 61. Section **76-8-316.2** is enacted to read:

76-8-316.2 . Assault with intent to impede, intimidate, interfere, or retaliate against a judge or member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole.

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

(i) "Board member" means the same as that term is defined in Section 76-8-316.

(ii) "Family member" means the same as that term is defined in Section 76-8-316.

(iii) "Judge" means the same as that term is defined in Section 76-8-316.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits assault with intent to impede, intimidate, interfere, or retaliate against a judge, board member, or family member if the actor commits an assault on a judge, a board member, or a family member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties, or with the intent to retaliate against the judge or board member on account of the performance of those official duties.

(3) A violation of Subsection (2) is a second degree felony.

Section 62. Section **76-8-316.4** is enacted to read:

76-8-316.4 . Aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole.

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

(i) "Board member" means the same as that term is defined in Section 76-8-316.

(ii) "Family member" means the same as that term is defined in Section 76-8-316.

(iii) "Judge" means the same as that term is defined in Section 76-8-316.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge, board member, or family member if the actor commits aggravated assault on a judge, a board member, or a family member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the

performance of the judge's or board member's official duties, or with the intent to retaliate against the judge or board member on account of the performance of those official duties.

(3) A violation of Subsection (2) is a first degree felony.

Section 63. Section **76-8-316.6** is enacted to read:

76-8-316.6 . Attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole.

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

(i) "Board member" means the same as that term is defined in Section 76-8-316.

(ii) "Family member" means the same as that term is defined in Section 76-8-316.

(iii) "Judge" means the same as that term is defined in Section 76-8-316.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge, board member, or family member if the actor commits attempted murder on a judge, a board member, or a family member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties, or with the intent to retaliate against the judge or board member on account of the performance of those official duties.

(3) A violation of Subsection (2) is a first degree felony.

(4) A member of the Board of Pardons and Parole is an executive officer for purposes of Subsection 76-5-202(2)(a)(xiii).

Section 64. Section **76-8-317** is amended to read:

76-8-317 . Refusal to comply with an order to evacuate or order issued in a local or state emergency.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person may not refuse to~~] An actor commits refusal to comply with an order to evacuate or order issued in a local or state emergency if the actor:

(a) receives notice of:

(i) an order to evacuate issued under [~~this chapter or refuse to comply with any other~~] Title 53, Chapter 2a, Emergency Management Act; or

(ii) an order issued[-] :

(A) by the governor in a state of an emergency under Section 53-2a-204; or

(B) [-]by a chief executive officer in a local emergency under Section 53-2a-205[~~, if notice of the order has been given to that person.~~] ; and

(b) refuses to comply with the order described in Subsection (2)(a).

[~~(2)~~] (3) [~~A person who violates this section is guilty of~~] A violation of Subsection (2) is a class B misdemeanor.

Section 65. Section **76-8-318** is amended to read:

76-8-318 . Assault or threat of violence against child welfare worker.

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

[~~(a)~~] (i) "Assault" means [~~the same as that term is defined in~~] an offense under Section 76-5-102.

[~~(b)~~] (ii) "Child welfare worker" means an employee of the Division of Child and Family Services created in Section 80-2-201.

[~~(c)~~] (iii) "Threat of violence" means [~~the same as that term is defined in~~] an offense under Section 76-5-107.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~An individual who commits an assault or threat of violence against a child welfare worker is guilty of a class A misdemeanor~~] An actor commits assault or threat of violence against child welfare worker if:

(a) the [~~individual~~] actor is not:

(i) a prisoner or an individual detained under Section 77-7-15; or

(ii) a minor in the custody of or receiving services from a division within the Department of Health and Human Services;

(b) the [~~individual~~] actor knew that the victim was a child welfare worker; and

(c) the child welfare worker was acting within the scope of the child welfare worker's authority at the time of the assault or threat of violence.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) [~~An individual who violates this section is guilty of~~] A violation of Subsection (2) is a third degree felony if the [~~individual~~] actor:

[~~(a)~~] (i) causes substantial bodily injury[~~, as defined in Section 76-1-101.5~~]; and

[~~(b)~~] (ii) acts intentionally or knowingly.

Section 66. Section **76-8-319**, which is renumbered from Section 76-8-311.5 is renumbered and amended to read:

~~[76-8-311.5]~~ 76-8-319. . Aiding or concealing an adjudicated minor -- Trespass of a secure care facility -- Criminal penalties.

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

[~~(a)~~] (i) "Abscond from a facility" means an adjudicated minor:

(A) leaves a facility without permission; or

(B) fails to return at a prescribed time.

(ii) "Abscond from supervision" means an adjudicated minor:

(A) changes the adjudicated minor's residence from the residence that the adjudicated minor reported to the division as the adjudicated minor's correct address to another residence, without notifying the division or obtaining permission; or

(B) for the purpose of avoiding supervision:

(I) hides at a different location from the adjudicated minor's reported residence; or

(II) leaves the adjudicated minor's reported residence.

(iii) "Adjudicated minor" means the same as the term "minor" is defined in Section 80-6-501.

(iv) "Division" means the Division of Juvenile Justice Services created in Section 80-5-103.

(v) "Facility" means the same as the term "detention facility" is defined in Section 80-1-102.

[~~(b) "Juvenile offender" means the same as that term is defined in Section 80-1-102.~~]

[~~(c)~~] (vi) "Secure care" means the same as that term is defined in Section 80-1-102.

[~~(d)~~] (vii) "Secure care facility" means the same as that term is defined in Section 80-1-102.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

[~~(2) An individual who commits any of the following offenses is guilty of a class A misdemeanor:~~]

[~~(a) entering, or attempting to enter, a building or enclosure appropriated to the use of juvenile offenders, without permission;~~]

[~~(b) entering any premises belonging to a secure care facility and committing or attempting to commit a trespass or damage on the premises of a secure care facility; or~~]

[~~(c) willfully annoying or disturbing the peace and quiet of a secure care facility or of a juvenile offender in a secure care facility.~~]

[~~(3)~~] (2) An [~~individual is guilty of a third degree felony who~~] actor commits aiding or concealing an adjudicated minor if the actor:

(a) knowingly harbors or conceals [~~a juvenile offender~~] an adjudicated minor who has:

(i) escaped from secure care; or

(ii) [~~as described in Subsection (4), ~~]absconded from:

(A) a facility or supervision; or

(B) supervision of the division; or

(b) willfully aided or assisted [~~a juvenile offender~~] an adjudicated minor who has been lawfully committed to a secure care facility in escaping or attempting to escape from the secure care facility.

[~~(4) As used in this section:~~]

[~~(a) a juvenile offender absconds from a facility under this section when the juvenile offender:~~]

[~~(i) leaves the facility without permission; or~~]

[~~(ii) fails to return at a prescribed time.~~]

[~~(b) A juvenile offender absconds from supervision when the juvenile offender:~~]

[~~(i) changes the juvenile offender's residence from the residence that the juvenile offender reported to the division as the juvenile offender's correct address to another residence, without notifying the division or obtaining permission; or~~]

[~~(ii) for the purpose of avoiding supervision:~~]

[~~(A) hides at a different location from the juvenile offender's reported residence; or~~]

[~~(B) leaves the juvenile offender's reported residence.~~]

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

Section 67. Section **76-8-320** is enacted to read:

76-8-320 . Trespass of a secure care facility.

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

(i) "Juvenile offender" means the same as that term is defined in Section 76-8-311.5.

(ii) "Secure care facility" means the same as that term is defined in Section 76-8-311.5.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits trespass of a secure care facility if the actor:

(a) without permission, enters or attempts to enter a building or enclosure appropriated to the use of juvenile offenders;

(b) (i) enters any premises belonging to a secure care facility; and

(ii) commits or attempts to commit a trespass or damage on the premises of the

secure care facility; or

(c) willfully annoys or disturbs the peace and quiet of:

(i) a secure care facility; or

(ii) a juvenile offender in a secure care facility.

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 68. Section **76-8-402** is amended to read:

76-8-402 . Misusing public money or public property -- Disqualification from office.

(1) (a) As used in this section, "authorized personal use" means:

[~~(a)~~] (i) the use of public property, for a personal matter, by [~~a~~] an actor who is a public servant if:

[~~(i)~~] (A) the [~~public servant~~] actor is authorized to use or possess the public property to fulfill the [~~public servant's~~] actor's duties as a public servant;

[~~(ii)~~] (B) the primary purpose of the [~~public servant~~] actor using or possessing the public property is to fulfill the [~~public servant's~~] actor's duties as a public servant;

[~~(iii)~~] (C) at the time the [~~public servant~~] actor uses the public property for a personal matter, a written policy of the [~~public servant's~~] actor's public entity is in effect that authorizes the [~~public servant~~] actor to use or possess the public property for personal use in addition to the primary purpose of fulfilling the [~~public servant's~~] actor's duties as a public servant; and

[~~(iv)~~] (D) the [~~public servant~~] actor uses and possesses the public property in a lawful manner and in accordance with the policy described in Subsection [~~(1)(a)(iii);~~] (1)(a)(i)(C); or

[~~(b)~~] (ii) incidental or de minimus use of public property for a personal matter by [~~a public servant,~~] an actor who is a public servant if:

[~~(i)~~] (A) the value provided to the [~~public servant's~~] actor's public entity by the [~~public servant's~~] actor's use or possession of the public property for a public purpose substantially outweighs the personal benefit received by the [~~employee~~] actor from the incidental use of the public property for a personal matter; and

[~~(ii)~~] (B) the incidental or de minimus use of the public property for a personal matter is not prohibited by law or by the [~~public servant's~~] actor's public entity.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~It is unlawful for a public servant to~~] An actor commits misusing public money or

public property if the actor is a public servant and knowingly:

(a) [~~appropriate~~] appropriates public money to the [~~public servant's~~] actor's own use or benefit or to the use or benefit of another person without authority of law;

(b) [~~loan or transfer~~] loans or transfers public money without authority of law;

(c) [~~fail~~] fails to keep public money in the [~~public servant's~~] actor's possession until disbursed by authority of law;

(d) [~~deposit~~] deposits public money in a bank or with another person in violation of the written policy of the [~~public servant's~~] actor's public entity or the requirements of law;

(e) [~~keep~~] keeps a false account or [~~make~~] makes a false entry or erasure in an account of, or relating to, public money;

(f) fraudulently [~~alter, falsify, conceal, or destroy~~] alters, falsifies, conceals, or destroys an account described in Subsection (2)(e);

(g) [~~refuse or omit~~] refuses or omits to pay over, on demand, any public money in the [~~public servant's~~] actor's custody or control, upon the presentation of a draft, order, or warrant drawn upon the public money by competent authority;

(h) [~~omit~~] omits to transfer public money when the transfer is required by law;

(i) [~~omit or refuse~~] omits or refuses to pay over, to [~~any~~] an officer or person authorized by law to receive public money, public money received by the [~~public servant~~] actor under any duty imposed on the [~~public servant~~] actor by law;

(j) [~~damage or dispose~~] damages or disposes of public property in violation of the written policy of the [~~public servant's~~] actor's public entity or the requirements of law;

(k) [~~obtain or exercise~~] obtains or exercises unauthorized control of public property with the intent to deprive the owner of possession of the public property;

(l) [~~obtain or exercise~~] obtains or exercises unauthorized control of public property with the intent to temporarily appropriate, possess, use, or deprive the owner of possession of the public property;

(m) [~~appropriate~~] appropriates public property to the [~~public servant's~~] actor's own use or benefit or to the use or benefit of another person without authority of law;

(n) [~~loan or transfer~~] loans or transfers public property without authority of law; or

(o) [~~fail~~] fails to keep public property in the [~~public servant's~~] actor's possession until returned to the property owner[~~,~~] or disposed of or relinquished[~~,~~] in accordance with the written policy of the [~~public servant's~~] actor's public entity and the requirements of law.

(3) (a) Except as provided [~~in Subsection (4)~~] by Subsection (3)(b), a violation of

Subsections (2)(a) through (i) is a third degree felony[~~ of the third degree~~].

[~~(4)~~] (b) A violation of Subsections (2)(a) through (i) is a second degree felony[~~ of the second degree~~] if:

[~~(a)~~] (i) the value of the public money exceeds $5,000;

[~~(b)~~] (ii) the amount of the false account exceeds $5,000;

[~~(c)~~] (iii) the amount falsely entered exceeds $5,000;

[~~(d)~~] (iv) the amount that is the difference between the original amount and the fraudulently altered amount exceeds $5,000; or

[~~(e)~~] (v) the amount falsely erased, fraudulently concealed, destroyed, or falsified in the account exceeds $5,000.

[~~(5)~~] (c) A violation of Subsection (2)(j) is:

[~~(a)~~] (i) a class B misdemeanor[~~,~~] if the cost to repair or replace the public property is less than $500;

[~~(b)~~] (ii) a class A misdemeanor[~~,~~] if the cost to repair or replace the public property is $500 or more, but less than $1,500;

[~~(c)~~] (iii) a third degree felony [~~of the third degree, ~~]if the cost to repair or replace the public property is $1,500 or more, but less than $5,000; or

[~~(d)~~] (iv) a second degree felony [~~of the second degree, ~~]if the cost to repair or replace the public property is $5,000 or more.

[~~(6)~~] (d) A violation of Subsection (2)(k), (m), (n), or (o) is:

[~~(a)~~] (i) a class B misdemeanor[~~,~~] if the value of the public property is less than $500;

[~~(b)~~] (ii) a class A misdemeanor[~~,~~] if the value of the public property is $500 or more, but less than $1,500;

[~~(c)~~] (iii) a third degree felony [~~of the third degree, ~~]if the value of the public property is $1,500 or more, but less than $5,000; or

[~~(d)~~] (iv) a second degree felony [~~of the second degree, ~~]if the value of the public property is $5,000 or more.

[~~(7)~~] (e) A violation of Subsection (2)(l) is:

[~~(a)~~] (i) a class C misdemeanor[~~,~~] if the value of the public property is less than $500;

[~~(b)~~] (ii) a class B misdemeanor[~~,~~] if the value of the public property is $500 or more, but less than $1,500;

[~~(c)~~] (iii) a class A misdemeanor[~~,~~] if the value of the public property is $1,500 or more, but less than $5,000; or

[~~(d)~~] (iv) a third degree felony [~~of the third degree, ~~]if the value of the public property

is $5,000 or more.

[~~(8) In addition to the penalty described in Subsections (3) through (7), a public officer who is convicted of a felony violation of Subsection (2):~~]

[~~(a) is subject to the penalties described in Section 76-8-404; and~~]

[~~(b) may not disburse public funds or access public accounts.~~]

[~~(9) (a) A public servant is not guilty of a violation of Subsections (2)(j) through (o)~~] [~~for authorized personal use of public property~~].

[~~(10)~~] (4) It is not a defense to a violation of Subsection (2) that:

(a) subsequent to the violation, a public entity modifies or adopts a policy or law, or takes other action, to retroactively authorize, approve, or ratify the conduct that constitutes a violation; or

(b) a written policy of the [~~public servant's~~] actor's public entity permits private use of the public property if it is proven, beyond a reasonable doubt, that the [~~public servant~~] actor did not comply with the written policy.

(5) Subsections (2)(j) through (2)(o) do not apply to the authorized personal use of public property.

(6) In addition to the punishment described in Subsection (3), an actor who:

(a) is convicted of a felony offense under this section may not disburse public funds or access public accounts; or

(b) is a public officer and is convicted of a felony offense under this section is disqualified from holding public office if:

(i) regardless of whether the public officer receives, safekeeps, transfers, disburses, or has a fiduciary relationship with public money, the public officer makes a profit from or out of public money or public property; or

(ii) the public officer uses public money or public property in a manner or for a purpose not authorized by law.

Section 69. Section **76-8-403** is amended to read:

76-8-403 . Failure to keep and pay over public money.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) Except as otherwise provided in Subsection [~~76-8-402(4), a person who~~] 76-8-402(3)(b), an actor commits failure to keep and pay over public money if the actor:

(a) receives, safekeeps, transfers, or disburses public money[~~who~~] ; and

(b) neglects or fails to keep and pay over the public money in the manner prescribed by law[~~is guilty of a felony of the third degree~~].

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

Section 70. Section **76-8-405** is amended to read:

76-8-405 . Failure to pay over a fine, forfeiture, or fee.

[~~Every public officer who~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits failure to pay over a fine, forfeiture, or fee if the actor:

(a) is a public officer;

(b) receives any fine, forfeiture, or fee; and

(c) [-]refuses or neglects to pay [~~it~~]over the fine, forfeiture, or fee within the time prescribed by law[~~ is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 71. Section **76-8-406** is amended to read:

76-8-406 . Obstructing the collection of revenue.

[~~Every person who~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits obstructing the collection of revenue if the actor willfully obstructs or hinders [~~any~~] a public officer who is empowered by law to collect revenue, taxes, or other sums of money from collecting [~~any~~] revenue, taxes, or other sums of money in which [~~the people of this state are interested, and which such officer is by law empowered to collect, is guilty of a class B misdemeanor~~] this state is interested.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 72. Section **76-8-407** is amended to read:

76-8-407 . Refusing to give accurate tax assessment information.

[~~Every person who~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits refusing to give accurate tax assessment information if the actor:

(a) unlawfully refuses, upon demand, to give to [~~any~~] a county assessor or deputy county assessor a list of [~~his~~] the actor's property subject to taxation, or to swear to such list[~~,~~] ; or[~~ who~~]

(b) gives a false name, or fraudulently refuses to give [~~his~~] the actor's true name when demanded by the county assessor or deputy county assessor in the discharge of [~~his~~] the assessor's official duties[~~, is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 73. Section **76-8-408** is amended to read:

76-8-408 . Giving a false tax receipt or failing to give a receipt.

[~~Every person who~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits giving a false tax receipt or failing to give a receipt if the actor:

(a) uses or gives [~~any~~] a receipt, except that prescribed by law, as evidence of the payment for [~~any~~] a tax or license of any kind[~~,~~] ; or[~~ who~~]

(b) receives payment for the tax or license without delivering the receipt prescribed by law[~~, is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 74. Section **76-8-409** is amended to read:

76-8-409 . Refusing to give a tax assessor or tax or license fee collector a list of employees.

[~~Every person who, when requested by the assessor or collector of taxes or license fees,~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits refusing to give a tax assessor or tax or license fee collector a list of employees if the actor refuses to give[~~ to~~] the assessor or collector the name and residence of each [~~person in his employ, or to give the assessor or collector access to the building or place of employment, is guilty of a class B misdemeanor.~~] individual in the actor's employ when requested by the assessor or collector.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 75. Section **76-8-409.2** is enacted to read:

76-8-409.2 . Denying a tax assessor or tax or license fee collector access to a building or place of employment.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits denying a tax assessor or tax or license fee collector access to a building or place of employment if the actor refuses to give the assessor or collector access to the building or place of employment when access is requested by the assessor or collector.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 76. Section **76-8-410** is amended to read:

76-8-410 . Doing business without a license.

[~~Every person who~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits doing business without a license if the actor commences or carries on [

~~any~~] a business, trade, profession, or calling, for [~~the transaction or carrying on of~~]which a license is required by [~~any~~]law, or by [~~any~~]county, city, or town ordinance, without [~~taking out the~~] obtaining the required license[~~required by law or ordinance is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 77. Section **76-8-411** is amended to read:

76-8-411 . Trafficking in warrants.

[~~No state,~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits trafficking in warrants if the actor:

(a) is a state, county, city, town, or district officer[-] ; and

(b) [~~shall, either directly or indirectly, contract for or purchase any~~] directly or indirectly contracts for or purchases a warrant or order issued by the state, county, city, town, or district of which [~~he~~] the actor is an officer, at any discount whatever upon the sum due on the warrant or order[~~, and, if any state, county, city, town, or district officer shall so contract for or purchase any such order or warrant on a discount, he is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 78. Section **76-8-412** is amended to read:

76-8-412 . Stealing, destroying or mutilating public records by custodian.

[~~Every officer having the custody of any record, map, or book, or of any paper or proceedings of any court, filed or deposited in any public office, or placed in his hands for any purpose, who is guilty of stealing, willfully destroying, mutilating, defacing, altering, falsifying, removing, or secreting the whole or any part thereof, or who permits any other person so to do, is guilty of a felony of the third degree.~~]

(1) (a) As used in this section, "public record" means the following records filed or deposited in a public office:

(i) a record;

(ii) a map;

(iii) a book; or

(iv) a paper or proceeding of a court.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits stealing, destroying, or mutilating a public record by a custodian if the actor:

(a) is a government officer who has custody of a public record; and

(b) steals, willfully destroys, mutilates, defaces, alters, falsifies, removes, or secrets the whole or a part of the public record or permits another individual to do so.

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

Section 79. Section **76-8-413** is amended to read:

76-8-413 . Stealing, destroying or mutilating public records by one not custodian.

[~~Every person, not an officer such as is referred to in the preceding section, who is guilty of any of the acts specified in that section is guilty of a class A misdemeanor.~~]

(1) (a) As used in this section, "public record" means the same as that term is defined in Section 76-8-412.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits stealing, destroying, or mutilating a public record by a noncustodian if the actor:

(a) does not have lawful custody of a public record; and

(b) steals, willfully destroys, mutilates, defaces, alters, falsifies, removes, or secrets the whole or a part of the public record or permits another individual to do so.

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 80. Section **76-8-414** is amended to read:

76-8-414 . Recording a false or forged instrument.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~Every person who~~] An actor commits recording a false or forged instrument if the actor knowingly procures or offers [~~any~~] a false or forged instrument to be filed, registered, or recorded in [~~any~~] a public office, which instrument, if genuine, might be filed or registered or recorded under [~~any~~] a law of this state or of the United States[~~, is guilty of a felony of the third degree~~].

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

Section 81. Section **76-8-415** is amended to read:

76-8-415 . Damaging or removing a monument of an official survey.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~Every person who~~] An actor commits damaging or removing a monument of an official survey if the actor willfully injures, defaces, or removes [~~any~~] a signal, monument, building, or appurtenance thereto, placed, erected, or used by persons engaged in the United States or state survey[~~ is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 82. Section **76-8-416** is amended to read:

76-8-416 . Taking a toll or maintaining a road, bridge, or ferry without authority.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~Any person who~~] An actor commits taking a toll or maintaining a road, bridge, or ferry without authority if the actor, without authority:

(a) demands or receives compensation for the use of [~~any~~] a bridge or ferry[~~,~~] ; or[~~ who~~]

(b) sets up or keeps [~~any~~] a road, bridge, [~~or~~]ferry, or constructed ford, for the purpose of receiving remuneration for [~~its~~] the road's, bridge's, ferry's, or constructed ford's use[~~without authority of law; and any person who refuses to pay on demand the compensation or fee authorized to be collected for use of a licensed toll road, bridge, ferry, or constructed ford after having used it is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 83. Section **76-8-416.2** is enacted to read:

76-8-416.2 . Refusal to pay a lawful toll.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits refusal to pay a lawful toll if the actor, after having used a licensed toll road, bridge, ferry, or constructed ford, refuses to pay on demand the compensation or fee authorized to be collected for use of the licensed toll road, bridge, ferry, or constructed ford.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 84. Section **76-8-417** is amended to read:

76-8-417 . Tampering with an official notice or proclamation.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~Every person who~~] An actor commits tampering with an official notice or proclamation if the actor intentionally defaces, obliterates, tears down, or destroys[~~-~~] :

(a) [~~any~~] a copy[~~ or~~] , transcript, or extract from or of [~~any~~] a law of the United States or of this state[~~,~~] ; or

(b) [~~ any ~~] a proclamation, advertisement, or notice, set up [~~at any place ~~]in this state by authority of [~~any ~~] a law of the United States or of this state, or by order of [~~any ~~] a court or of [~~any ~~] a public officer, before the expiration of the time for which the [~~same ~~] proclamation, advertisement, or notice was to remain set up[~~, is guilty of an infraction~~].

(3) A violation of Subsection (2) is an infraction.

Section 85. Section **76-8-418** is amended to read:

76-8-418 . Damaging a jail or other place of confinement.

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

[~~(a)~~] (i) "Child" means the same as that term is defined in Section 80-1-102.

[~~(b)~~] (ii) "Detention facility" means the same as that term is defined in Section 80-1-102.

[~~(c)~~] (iii) "Secure care facility" means the same as that term is defined in Section 80-1-102.

[~~(d)~~] (iv) "Shelter facility" means the same as that term is defined in Section 80-1-102.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person who~~] An actor commits damaging a jail or other place of confinement if the actor willfully and intentionally breaks down, pulls down, destroys, floods, or otherwise damages [~~any~~] a public jail or other place of confinement, including a detention facility, a shelter facility, or a secure care facility[~~, is guilty of a felony of the third degree~~].

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

[~~(3)~~] (4) This section is applicable to a child who willfully and intentionally commits an offense against a public jail, a detention facility, a shelter facility, or a secure care facility.

Section 86. Section **76-8-419** is amended to read:

76-8-419 . Damaging a highway or bridge.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~Every person who~~] An actor commits damaging a highway or bridge if the actor intentionally, knowingly, or recklessly digs up, removes, displaces, breaks, or otherwise damages or destroys [~~any public highway, or any~~] a public highway or private way laid out by authority of law, or [~~any~~] a bridge upon the highway or private way[~~ is guilty of a class A misdemeanor~~].

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a third degree felony.

[~~(2)~~] (4) If the violation of this section constitutes an offense subject to a greater penalty under another provision of Title 76, Utah Criminal Code, than is provided under this section, this section does not prohibit the prosecution and sentencing for the offense subject to a greater penalty.

Section 87. Section **76-8-420** is amended to read:

76-8-420 . Removing or damaging a road sign.

[~~Every person who intentionally or knowingly removes or injures any milepost or~~

~~milestone or guidepost or any inscription on them, erected upon any highway, is guilty of a class B misdemeanor.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits removing or damaging a road sign if the actor intentionally or knowingly removes or damages:

(a) a milepost, milestone, or guidepost erected on a highway; or

(b) an inscription on a milepost, milestone, or guidepost.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 88. Section **76-8-501** is amended to read:

76-8-501 . Definitions.

As used in this part:

(1) "False statement" includes a false unsworn declaration[~~, with "unsworn declaration" being defined in Section 78B-18a-102~~].

(2) "Material" means capable of affecting the course or outcome of an official proceeding, unless the [~~person~~] individual who made the statement or provided the information retracts the statement or information before the earlier of:

(a) the end of the official proceeding in which the statement was made or the information was provided;

(b) when it becomes manifest that the false or misleading nature of the statement or information has been or will be exposed; or

(c) when the statement or information substantially affects the proceeding.

(3) "Official proceeding" means:

(a) [~~any~~] a proceeding before:

(i) a legislative, judicial, administrative, or other governmental body or official authorized by law to take evidence under oath or affirmation;

(ii) a notary; or

(iii) [~~a person that~~] an individual who takes evidence in connection with a proceeding described in Subsection (3)(a)(i);

(b) [~~any~~] a civil or administrative action, trial, examination under oath, administrative proceeding, or other civil or administrative adjudicative process; or

(c) an investigation or audit conducted by:

(i) the Legislature, or a house, committee, subcommittee, or task force of the Legislature; or

(ii) an employee or independent contractor of an entity described in Subsection

(3)(c)(i), at or under the direction of an entity described in Subsection (3)(c)(i).

(4) "Unsworn declaration" means the same as that term is defined in Section 78B-18a-102.

Section 89. Section **76-8-502** is amended to read:

76-8-502 . Making a false or inconsistent material statement.

[~~A person is guilty of a felony of the second degree if in any official proceeding:~~]

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~He~~] An actor commits making a false or inconsistent material statement if the actor:

(a) makes a false material statement under oath or affirmation or swears or affirms the truth of a material statement previously made and [~~he~~] the actor does not believe the statement to be true; or

[~~(2)~~] (b) [~~He~~]makes inconsistent material statements under oath or affirmation, both within the period of limitations, one of which is false and [~~not believed by him~~] the actor does not believe to be true.

(3) A violation of Subsection (2) is a second degree felony.

(4) It is not a defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner.

(5) (a) In a prosecution for a violation of Subsection (2)(a), the falsity of an actor's statement may not be established solely through contradiction by the testimony of a single witness.

(b) In a prosecution for a violation of Subsection (2)(b), it need not be alleged or proved which of the statements are false but only that one or the other statement is false and not believed by the actor to be true.

Section 90. Section **76-8-503** is amended to read:

76-8-503 . Making a false or inconsistent statement.

(1) [~~Except as provided in Subsection (2), a person is guilty of a class B misdemeanor if:~~]

Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

[~~(a)~~] (2) [~~the person~~] Except as provided in Subsection (6), an actor commits making a false or inconsistent statement if the actor:

(a) makes a false statement under oath or affirmation or swears or affirms the truth of the statement previously made and the [~~person~~] actor does not believe the statement to be true if:

(i) the falsification occurs in an official proceeding, or is made with a purpose to mislead a public servant in performing the public servant's official functions; or

(ii) the statement is one that is authorized by law to be sworn or affirmed before a notary or other [~~person~~] individual authorized to administer oaths; or

(b) [~~the person~~]makes inconsistent statements under oath or affirmation, both within the period of limitations, one of which is false and not believed by the [~~person~~] actor to be true.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) (a) It is not a defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner.

(b) It is a defense to prosecution under this section that the actor retracted the false statement before it became manifest that the falsity of the statement had been or would be exposed.

(5) (a) In a prosecution for a violation of Subsection (2)(a), the falsity of an actor's statement may not be established solely through contradiction by the testimony of a single witness.

(b) In a prosecution for a violation of Subsection (2)(b), it need not be alleged or proved which of the statements are false but only that one or the other statement is false and not believed by the actor to be true.

[~~(2)~~] (6) Subsection [~~(1)~~] (2) does not include obstructing a legislative proceeding, as described in Section 36-12-9.5.

[~~(3) A person is not guilty under this section if the person retracts the falsification before it becomes manifest that the falsification has been or will be exposed.~~]

Section 91. Section **76-8-504** is amended to read:

76-8-504 . Making a written false statement.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) An actor commits [~~the offense of~~] making a written false statement if:

(a) the actor makes a statement that the actor does not believe to be true on or under a form bearing a notification authorized by law to the effect that [~~false statements made therein are punishable~~] a false statement made therein is punishable; or

(b) with intent to deceive a public servant in the performance of the public servant's official function, the actor:

(i) makes a written false statement that the actor does not believe to be true;

(ii) knowingly creates a false impression in a written application for a pecuniary or other benefit by omitting information necessary to prevent a statement in the application from being misleading;

(iii) submits or invites reliance on a writing that the actor knows to be lacking in authenticity; or

(iv) submits or invites reliance on a sample, specimen, map, boundary mark, or other object that the actor knows to be false.

[~~(2)~~] (3) (a) Except as provided in Subsection [~~(2)(b),~~] (3)(b), a violation of Subsection [~~(1)~~] (2) is a class B misdemeanor.

(b) A violation of Subsection [~~(1)~~] (2) is a third degree felony if the false statement is on a financial declaration described in Section 77-38b-204.

[~~(3) It is not an offense under this section if the actor retracts the falsification before it becomes manifest that the falsification was or would be exposed.~~]

(4) (a) An actor does not violate this section if the actor retracted the false statement before it became manifest that the falsity of the statement had been or would be exposed.

(b) It is not a defense to prosecution under this section that, if applicable, an oath or affirmation was administered or taken in an irregular manner.

Section 92. Section **76-8-504.5** is amended to read:

76-8-504.5 . Making a false statement to be used in a preliminary hearing.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~A person is guilty of a class A misdemeanor if the person~~] An actor commits making a false statement to be used in a preliminary hearing if the actor makes a false statement that:

(a) [~~which the person~~] the actor does not believe to be true;

(b) [~~that the person~~] the actor has reason to believe will be used in a preliminary hearing; and

(c) the actor made after having been notified either verbally or in writing that:

(i) the statement may be used in a preliminary hearing before a magistrate or a judge; and

(ii) if the [~~person~~] actor makes a false statement after having received this notification, [~~he~~] the actor is subject to a criminal penalty.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) It is not a defense to prosecution under this section that, if applicable, an oath or affirmation was administered or taken in an irregular manner.

[~~(2)~~] (5) [~~Notification~~] A notification under Subsection [~~(1)~~] (2)(c) is sufficient if [~~it~~] the notification is verbal or written and is in substantially the following form: "You are

notified that statements you are about to make may be presented to a magistrate or a judge in lieu of your sworn testimony at a preliminary examination. Any false statement you make and that you do not believe to be true may subject you to criminal punishment as a class A misdemeanor."

Section 93. Section **76-8-504.6** is amended to read:

76-8-504.6 . Providing false or misleading information.

(1) (a) As used in this section, "officer of the court" means:

(i) a prosecutor;

(ii) a judge;

(iii) a court clerk;

(iv) an interpreter;

(v) a presentence investigator;

(vi) a probation officer;

(vii) a parole officer; or

(viii) an individual reasonably believed to be gathering information for a criminal proceeding.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~A person is guilty of a class B misdemeanor if the person,~~] An actor commits providing false or misleading information if the actor, not under oath or affirmation, intentionally or knowingly provides false or misleading material information to:

(a) an officer of the court for the purpose of influencing a criminal proceeding; or

(b) the Bureau of Criminal Identification for the purpose of obtaining a certificate of eligibility for:

(i) expungement; or

(ii) removal of the person's name from the White Collar Crime Registry created in Title 77, Chapter 42, Utah White Collar Crime Offender Registry.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a class B misdemeanor.

[~~(2) For the purposes of this section "officer of the court" means:~~]

[~~(a) prosecutor;~~]

[~~(b) judge;~~]

[~~(c) court clerk;~~]

[~~(d) interpreter;~~]

[~~(e) presentence investigator;~~]

[~~(f) probation officer;~~]

[~~(g) parole officer; and~~]

[~~(h) any other person reasonably believed to be gathering information for a criminal proceeding.~~]

[~~(3)~~] (4) This section does not apply under circumstances amounting to Section 76-8-306 or any other provision of this code carrying a greater penalty.

Section 94. Section **76-8-506** is amended to read:

76-8-506 . Providing false information to a law enforcement officer, government agency, or specified professional.

[

~~A person is guilty of a class B misdemeanor if he:~~]

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) An actor commits providing false information to a law enforcement officer, government agency, or specified professional if the actor knowingly gives or causes to be given[~~-~~] :

(a) false information to [~~any~~] a peace officer or [~~any~~]state or local government agency or personnel with a purpose of inducing the recipient of the information to believe that another person has committed an offense;

[~~(2)~~] (b) [~~knowingly gives or causes to be given to any~~] information concerning the commission of an offense to a peace officer, [~~any~~] a state or local government agency or personnel, or to [~~any person~~] an individual licensed in this state to practice social work, psychology, or marriage and family therapy, [~~information concerning the commission of an offense, ~~]knowing that the offense did not occur or knowing that [~~he~~] the actor has no information relating to the offense or danger; or

[~~(3)~~] (c) [~~knowingly gives or causes to be given ~~]false information to [~~any~~] a state or local government agency or personnel with a purpose of inducing a change in the [~~person's~~] actor's licensing or certification status or the licensing or certification status of another person.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 95. Section **76-8-507** is amended to read:

76-8-507 . Providing false personal information to a peace officer.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~A person commits a class C misdemeanor if, ~~] An actor commits providing false personal information to a peace officer if the actor knowingly:

(a) with intent of misleading a peace officer as to the [~~person's~~] actor's identity, birth

date, or place of residence, [~~the person knowingly~~]gives a false name, birth date, or address to [~~a~~] the peace officer in the lawful discharge of the peace officer's official duties[~~.~~] ; or

[~~(2)~~] (b) [~~A person commits a class A misdemeanor if,~~]with the intent of leading a peace officer to believe that the [~~person~~] actor is another actual [~~person, he~~] individual, gives the name, birth date, or address of another [~~person to a~~] individual to the peace officer acting in the lawful discharge of the peace officer's official duties.

(3) (a) A violation of Subsection (2)(a) is a class C misdemeanor.

(b) A violation of Subsection (2)(b) is a class A misdemeanor.

Section 96. Section **76-8-508** is amended to read:

76-8-508 . Tampering with a witness.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~A person is guilty of the third degree felony of~~] An actor commits tampering with a witness if[~~,~~] the actor:

(a) (i) [~~believing~~] believes that an official proceeding or investigation is pending or about to be instituted[~~,~~] ; or

(ii) [~~with the intent~~] intends to prevent an official proceeding or investigation[~~,~~] ; and

(b) [~~he~~] attempts to induce or otherwise cause another [~~person~~] individual to:

[~~(a)~~] (i) testify or inform falsely;

[~~(b)~~] (ii) withhold [~~any~~]testimony, information, a document, or an item;

[~~(c)~~] (iii) elude legal process summoning [~~him~~] the individual to provide evidence; or

[~~(d)~~] (iv) absent [~~himself~~] the individual from [~~any~~] a proceeding or investigation to which [~~he~~] the individual has been summoned.

[~~(2) A person is guilty of the third degree felony of soliciting or receiving a bribe as a witness if he solicits, accepts, or agrees to accept any benefit in consideration of his doing any of the acts specified under Subsection (1).~~]

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

[~~(3)~~] (4) [~~The offense of tampering with a witness or soliciting or receiving a bribe~~] A violation under this section does not merge with [~~any other~~] another substantive offense committed in the course of [~~committing any offense under~~] violating this section.

Section 97. Section **76-8-508.3** is amended to read:

76-8-508.3 . Retaliation against a witness, victim, or informant.

[~~(1) As used in this section:~~]

[~~(a)~~] (1) (a) [~~A person is "closely associated"~~] As used in this section:

(i) "An individual closely associated with a witness, victim, or informant[~~ if the person~~] " means an individual who is a member of the [~~witness~~'] witness's, victim's, or informant's family, has a close personal or business relationship with the witness or victim, or resides in the same household with the witness, victim, or informant.

[~~(b)~~] (ii) "Harm" means physical, emotional, or economic injury or damage to a person or to his property, reputation, or business interests.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

[~~(2) A person is guilty of the third degree felony of retaliation against a witness, victim, or informant if, believing that an official proceeding or investigation is pending, is about to be instituted, or has been concluded, he:~~]

[~~(a) (i) makes a threat of harm; or~~]

[~~(ii) causes harm; and~~]

[~~(b) directs the threat or action:~~]

[~~(i) against a witness or an informant regarding any official proceeding, a victim of any crime, or any person closely associated with a witness, victim, or informant; and~~]

[~~(ii) as retaliation or retribution against the witness, victim, or informant.~~]

[~~(3)~~] (2) An actor commits retaliation against a witness, victim, or informant if the actor:

(a) believes that an official proceeding or investigation is pending, is about to be brought, or has been concluded;

(b) makes a threat of harm or causes harm; and

(c) directs the threat or action causing harm as retaliation or retribution against a witness or an informant involved in an official proceeding, a victim of a crime, or an individual closely associated with a witness, victim, or informant.

(3) [~~This section does not prohibit any person from seeking any legal redress to which the person is otherwise entitled.~~] A violation of Subsection (2) is a third degree felony.

(4) [~~The offense of retaliation against a witness, victim, or informant~~] A violation under this section does not merge with [~~any other~~] another substantive offense committed in the course of [~~committing any offense under~~] violating this section.

(5) This section does not prohibit an individual from seeking other legal redress to which the individual is otherwise entitled.

Section 98. Section **76-8-508.5** is amended to read:

76-8-508.5 . Tampering or retaliating against a juror.

(1) (a) As used in this section, "juror" means [~~a person~~] an individual:

[~~(a)~~] (i) summoned for jury duty; or

[~~(b)~~] (ii) serving as or having served as a juror or alternate juror in any court or as a juror on any grand jury of the state.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~A person is guilty of tampering with a juror if he~~] An actor commits tampering or retaliating against a juror if the actor:

(a) attempts to or actually influences a juror in the discharge of the juror's service by:

[~~(a)~~] (i) communicating with the juror by any means, directly or indirectly, except for [~~attorneys~~] an attorney in the lawful discharge of [~~their~~] the attorney's duties in open court;

[~~(b)~~] (ii) offering, conferring, or agreeing to confer any benefit upon the juror; or

[~~(c)~~] (iii) communicating to the juror a threat that a reasonable person would believe to be a threat to injure:

[~~(i)~~] (A) the juror's person or property; or

[~~(ii)~~] (B) the person or property of [~~any other person~~] another individual in whose welfare the juror is interested[~~.~~] ; or

[~~(3)~~] (b) [~~A person is guilty of tampering with a juror if he commits any~~] commits an unlawful act in retaliation for [~~anything done~~] an action taken by the juror in the discharge of the juror's service:

[~~(a)~~] (i) to the juror's person or property; or

[~~(b)~~] (ii) to the person or property of [~~any other person~~] another individual in whose welfare the juror is interested.

[~~(4)~~] (3) [~~Tampering with a juror~~] A violation of Subsection (2) is a third degree felony.

Section 99. Section **76-8-508.7** is enacted to read:

76-8-508.7 . Receiving or soliciting a bribe as a witness.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) An actor commits receiving or soliciting a bribe as a witness if the actor:

(a) believes that an official proceeding or investigation is pending or about to be instituted; and

(b) solicits, accepts, or agrees to accept a benefit in consideration of the actor:

(i) testifying or informing falsely;

(ii) withholding testimony, information, a document, or an item;

(iii) eluding legal process summoning the actor to provide evidence; or

(iv) absenting the actor from a proceeding or investigation to which the actor has

been summoned.

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

(4) A violation under this section does not merge with another substantive offense committed in the course of violating this section.

Section 100. Section **76-8-509** is amended to read:

76-8-509 . Extortion or bribery to dismiss a criminal proceeding.

(1) (a) As used in this section, "victim" includes a child or other individual under the care or custody of a parent or guardian.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~A person is guilty of a felony of the second degree if by~~] An actor commits extortion or bribery to dismiss a criminal proceeding if the actor attempts to induce an alleged victim of a crime to take an action to secure the dismissal or to prevent the filing of a criminal complaint, indictment, or information by:

(a) the use of force; or

(b) [~~by any threat which would constitute a means of committing the crime of theft by extortion under this code, if the threat were employed to obtain property, or by promise of any reward or pecuniary benefits, he attempts to induce an alleged victim of a crime to secure the dismissal of or to prevent the filing of a criminal complaint, indictment, or information.~~] a threat that would constitute a means of committing the offense of theft by extortion under Section 76-6-406 if the threat were employed to obtain property or by promise of a reward or pecuniary benefit.

(3) A violation of Subsection (2) is a second degree felony.

[~~(2) "Victim," as used in this section, includes a child or other person under the care or custody of a parent or guardian.~~]

Section 101. Section **76-8-510.5** is amended to read:

76-8-510.5 . Tampering with evidence.

(1) (a) As used in this section, "thing or item" includes any document, record book, paper, file, electronic compilation, or other evidence.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~A person is guilty of~~] An actor commits tampering with evidence if[~~, believing~~] the actor:

(a) (i) believes that an official proceeding or investigation is pending or about to be instituted[~~,~~] ; or[~~ with the intent~~]

(ii) intends to prevent an official proceeding or investigation or to prevent the

production of [~~any~~] a thing or item which reasonably would be anticipated to be evidence in the official proceeding or investigation[~~, the person~~] ; and

(b) knowingly or intentionally:

[~~(a)~~] (i) alters, destroys, conceals, or removes [~~any~~] a thing or item with the purpose of impairing the veracity or availability of the thing or item in the proceeding or investigation; or

[~~(b)~~] (ii) makes, presents, or uses [~~any~~] a thing or item which the [~~person~~] actor knows to be false with the purpose of deceiving a public servant or [~~any~~]other party who is or may be engaged in the proceeding or investigation.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if the offense is committed in conjunction with an official proceeding.

[~~(3)~~] (4) Subsection (2) does not apply to any offense that amounts to a violation of Section 76-8-306.

[~~(4) (a) Tampering with evidence is a third degree felony if the offense is committed in conjunction with an official proceeding.~~]

[~~(b) Any violation of this section except under Subsection (4)(a) is a class A misdemeanor.~~]

Section 102. Section **76-8-511** is amended to read:

76-8-511 . Falsification or alteration of a government record.

[~~A person is guilty of a class B misdemeanor~~]

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) An actor commits falsification or alteration of a government record if, under circumstances not amounting to an offense subject to a greater penalty under Title 76, Chapter 6, Part 5, Fraud, [~~the person~~] the actor:

[~~(1)~~] (a) knowingly makes a false entry in or false alteration of anything belonging to, received, or kept by the government for information or record, or required by law to be kept for information of the government;

[~~(2)~~] (b) presents or uses anything knowing it to be false and with a purpose that it be taken as a genuine part of information or [~~records~~] record referred to in Subsection [~~(1)~~] (2)(a); or

[~~(3)~~] (c) intentionally destroys, conceals, or otherwise impairs the verity or availability of the information or [~~records~~] record, knowing that the destruction, concealment, or impairment is unlawful.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 103. Section **76-8-512** is amended to read:

76-8-512 . Impersonation of officer.

[~~A person is guilty of a class B misdemeanor who:~~]

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

[~~(1)~~] (2) An actor commits impersonation of an officer if the actor:

(a) impersonates a public servant or a peace officer with intent to deceive another individual or with intent to induce another individual to submit to [~~his~~] the actor's pretended official authority or to rely upon [~~his~~] the actor's pretended official act;

[~~(2)~~] (b) falsely states [~~he~~] that the actor is a public servant or a peace officer with intent to deceive another individual or to induce another individual to submit to [~~his~~] the actor's pretended official authority or to rely upon [~~his~~] the actor's pretended official act; or

[~~(3)~~] (c) displays or possesses without authority [~~any~~] a badge, identification card, other form of identification, [~~any~~] a restraint device, [~~or~~]the uniform of [~~any~~] a state or local governmental entity, or a reasonable facsimile of any of these items, with the intent to deceive another individual or with the intent to induce another individual to submit to [~~his~~] the actor's pretended official authority or to rely upon [~~his~~] the actor's pretended official act.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 104. Section **76-8-513** is amended to read:

76-8-513 . Sending a false judicial or official notice.

[~~A person is guilty of a class B misdemeanor who, with a purpose to procure the compliance of another with a request made by the person, knowingly sends, mails, or delivers to the person a notice or other writing which has no judicial or other sanction but which in its format or appearance simulates a summons, complaint, court order, or process, or an insignia, seal, or printed form of a federal, state, or local government or an instrumentality thereof, or is otherwise calculated to induce a belief that it does have a judicial or other official sanction.~~]

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

(i) "Official document" means:

(A) a summons, complaint, court order, or process; or

(B) an insignia, seal, or printed form of a federal, state, or local governmental entity or an instrumentality of a federal, state, or local governmental entity.

(ii) (A) "False official document" means a document that has the appearance or format of an official document but that has not been sanctioned by the relevant governmental entity.

(B) "False official document" includes a document calculated to induce an individual to believe that the document is an official document of the relevant governmental entity.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) An actor commits sending a false judicial or official notice if the actor knowingly sends, mails, or delivers to an individual a false official document with the purpose to procure the compliance of the individual.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 105. Section **76-8-515** is amended to read:

76-8-515 . Impersonation of a utility officer or employee.

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

(i) "Critical infrastructure facility" means the same as that term is defined in Section 76-6-106.3.

(ii) "Sabotage" means the same as that term is defined in Section 76-8-901.

(iii) "Terrorism" means the same as that term is defined in Section 53-2a-102.

(iv) "Utility" means a private or governmental entity operating a critical infrastructure facility.

(b) Terms defined [~~in Section 76-1-101.5 apply to this section~~] in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) An actor commits impersonation of a utility officer or employee if the actor, without authority from a utility:

(a) intends to lead an individual to believe that the actor is acting on behalf of the utility in an official capacity; and

(b) attempts to act on behalf of the utility.

(3) (a) [~~A~~] Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) [~~Notwithstanding Subsection (3)(a), a~~] A violation of Subsection (2) is a third degree felony if the actor, while taking the action described in Subsection (2), intends to commit an act of terrorism or sabotage.

Section 106. Section **76-8-601** is amended to read:

76-8-601 . Wrongful commencement of an action in justice court.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits wrongful commencement of an action in justice court if the actor:

(a) is:

(i) a party to a suit or a proceeding; or

(ii) an agent or attorney for a party to a suit or proceeding; and

(b) [~~Any party to any suit or proceeding, and any attorney or agent for the party, who knowingly commences, prosecutes, or maintains any action, suit, or proceeding in any justice court other than as provided in Sections 78A-7-105 and 78A-7-106, is guilty of a class B misdemeanor.~~] except as provided in Section 78A-7-105 or 78A-7-106, knowingly commences, prosecutes, or maintains an action, suit, or proceeding in a justice court.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 107. Section **76-8-602** is amended to read:

76-8-602 . Wrongfully conferring jurisdiction upon a justice court.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~Any person who binds himself, or~~] An actor commits wrongfully conferring jurisdiction upon a justice court if the actor, for the purpose of conferring jurisdiction of a cause upon a justice court in a precinct or city that would be without jurisdiction except for the liability of the joint obligor, binds the actor's self, voluntarily becomes liable jointly or jointly and severally with [~~any other person, for the purpose of conferring jurisdiction of any cause upon any justice court judge in any precinct or city that would be without jurisdiction except for the liability of the joint obligor, and any person who induces a person to assume the liability for the purpose of conferring jurisdiction upon the justice court judge, is guilty of~~] another person, or induces a person to assume a liability.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 108. Section **76-8-603** is amended to read:

76-8-603 . Wrongfully issued writ of attachment by a justice court judge.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~It is unlawful for any~~] An actor commits wrongfully issued writ of attachment by a justice court judge if the actor:

(a) is a justice court judge[~~ to issue any~~] ; and

(b) issues a writ of attachment[~~, and for any party, agent, or attorney of the party, to advise, induce, or procure the issuance thereof, in any~~] in an action, suit, or proceeding[-] :

(i) before the affidavit[-] is filed[~~,~~] ; or

(ii) [~~ where~~] in which the affidavit filed does not conform substantially with the requirements of Rule 64C of the Utah Rules of Civil Procedure.

(3) [~~Any person violating any of the provisions of this section is guilty of~~] A violation of Subsection (2) is a class B misdemeanor[~~ and shall be~~] .

(4) In addition to the penalty under Subsection (3), an actor is liable to the person whose property, credits, money, or earnings are attached for:

(a) double the value of the attached property[~~, together with~~] ;

(b) all costs paid by [~~him,~~] the person; and

(c) all damages incurred in the attachment proceedings.

Section 109. Section **76-8-604** is enacted to read:

76-8-604 . Wrongful inducement to receive writ of attachment.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits wrongful inducement to receive writ of attachment if the actor:

(a) is:

(i) a party to an action, suit, or proceeding;

(ii) an agent of a party to an action, suit, or proceeding; or

(iii) an attorney of a party to an action, suit, or proceeding; and

(b) advises, induces, or procures the issuance of a writ of attachment in the action, suit or proceeding:

(i) before the affidavit is filed; or

(ii) in which the affidavit filed does not conform substantially with the requirements of Rule 64C of the Utah Rules of Civil Procedure.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) In addition to the penalty under Subsection (3), an actor is liable to the person whose property, credits, money, or earnings are attached for:

(a) double the value of the attached property;

(b) all costs paid by the person; and

(c) all damages incurred in the attachment proceedings.

Section 110. Section **76-8-703** is amended to read:

76-8-703 . Criminal trespass upon an institution of higher education.

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

(i) "Chief administrative officer" means the same as that term is defined in Section 53B-20-107.

(ii) "Enters" means intrusion of the entire body.

(iii) "Institution of higher education" means the same as that term is defined in Section 53B-20-107.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits criminal trespass upon an institution of higher education if the actor enters or remains on property that is owned, operated, or controlled by an institution of higher education:

(a) after being ordered to leave by the chief administrative officer; or

(b) without authorization if notice against entry or remaining has been given by:

(i) personal communication to the person by the chief administrative officer or a person with apparent authority to act for the institution of higher education;

(ii) the posting of signs reasonably likely to come to the attention of a trespasser;

(iii) fencing or other enclosure obviously designed to exclude a trespasser; or

(iv) a current order of suspension or expulsion.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted two or more times of a violation of Subsection (2).

[~~(a) A chief administrative officer may order a person to leave property that is owned, operated, or controlled by an institution of higher education if the person:~~]

[~~(i) acts or if the chief administrative officer has reasonable cause to believe that the person intends to act to:~~]

[~~(A) cause injury to a person;~~]

[~~(B) cause damage to property;~~]

[~~(C) commit a crime;~~]

[~~(D) interfere with the peaceful conduct of the activities of the institution;~~]

[~~(E) violate any rule or regulation of the institution if that rule or regulation is not in conflict with state law; or~~]

[~~(F) disrupt the institution, its pupils, or the institution's activities; or~~]

[~~(ii) is reckless as to whether the person's actions will cause fear for the safety of another.~~]

[~~(b) A person is guilty of criminal trespass upon an institution of higher education if the person enters or remains on property that is owned, operated, or controlled by an institution of higher education after being ordered to leave under Subsection (1)(a).~~]

[~~(c)~~] (4) The mere carrying or possession of a firearm on the campus of a state institution of

higher education, as defined in Section 53B-3-102, does not warrant an order to leave under Subsection [~~(1)(a) if the person~~] (2)(a) if the individual carrying or possessing the firearm is otherwise complying with all state laws regulating the possession and use of a firearm.

[~~(2) A person is guilty of criminal trespass upon an institution of higher education if the person enters or remains without authorization upon property that is owned, operated, or controlled by an institution of higher education if notice against entry or remaining has been given by:~~]

[~~(a) personal communication to the person by the chief administrative officer or a person with apparent authority to act for the institution;~~]

[~~(b) the posting of signs reasonably likely to come to the attention of trespassers;~~]

[~~(c) fencing or other enclosure obviously designed to exclude trespassers; or~~]

[~~(d) a current order of suspension or expulsion.~~]

[~~(3)~~] (5) If an employee or student of an institution of higher education is ordered to leave under Subsection [~~(1)~~] (2)(a) or receives a notice against entry or remaining under Subsection [~~(2)~~] (2)(b), the institution of higher education shall afford the employee or student the process required by the institution of higher education's rules and regulations.

[~~(4) A person who violates this section shall be punished as provided in Section 76-8-717.~~]

Section 111. Section **76-8-705** is amended to read:

76-8-705 . Willful interference with lawful activities of students or faculty.

(1) (a) As used in this section, "institution" means the same as that term is defined in Section 53B-20-107.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of a class C misdemeanor if,~~] An actor commits willful interference with lawful activities of students or faculty if the actor, while on property that is owned, operated, or controlled by an institution[~~ of higher education, the person~~] , willfully:

[~~(1)~~] (a) denies to a student, school official, employee, or invitee lawful:

[~~(a)~~] (i) freedom of movement;

[~~(b)~~] (ii) use of the property or facilities; or

[~~(c)~~] (iii) ingress or egress to the institution's physical facilities;

[~~(2)~~] (b) impedes a faculty or staff member of the institution in the lawful performance of the member's duties; or

[~~(3)~~] (c) impedes a student of the institution in the lawful pursuit of the student's educational activities.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 112. Section **76-8-802** is amended to read:

76-8-802 . Destruction of property to interfere with preparations for defense or war.

[~~Whoever~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits destruction of property to interfere with preparations for defense or war if the actor:

(a) intentionally destroys, impairs, injures, interferes, or tampers with real or personal property[~~-~~] ; and

(b) [~~with~~] has reasonable grounds to believe that the [~~act~~] actor's conduct under Subsection (2)(a) will hinder, delay, or interfere with the preparation of the United States [~~or of any of the states~~] government or of a state government for defense or for war, or with the prosecution of war by the United States[~~, shall be guilty of a felony of the second degree~~] government.

(3) A violation of Subsection (2) is a second degree felony.

(4) Prior to the filing of a formal criminal complaint, evidence of an alleged actor's conduct under Subsection (2) or the name of the actor may not be made public.

Section 113. Section **76-8-803** is amended to read:

76-8-803 . Causing or omitting to note defects in articles used in preparation for defense or war.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~Whoever~~] An actor commits causing or omitting to note defects in articles used in preparation for defense or war if the actor:

(a) intentionally makes or causes to be made or omits to note on inspection [~~any~~] a defect in [~~any~~] an article or thing[~~-~~] ; and

(b) [~~with~~] has reasonable grounds to believe that the article or thing is intended to be used in connection with the preparation of the United States [~~or any of the states~~] government or of a state government for defense or for war, or for the prosecution of war by the United States[~~, or that the article or thing is one of a number of similar articles or things, some of which are intended so to be used, shall be guilty of a felony of the third degree.~~] government.

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

(4) Prior to the filing of a formal criminal complaint, evidence of an alleged actor's conduct

under Subsection (2) or the name of the actor may not be made public.

Section 114. Section **76-8-804** is amended to read:

76-8-804 . Attempts to commit crimes of sabotage.

[~~Whoever attempts to commit any of the crimes defined by this part shall be punishable for the attempt as prescribed in Section 76-4-102. In addition to the acts which constitute an attempt to commit crime under the law of this state, the solicitation or incitement of another to commit any of the crimes defined by this part not allowed by the commission of the crime, the collection or assemblage of any materials with the intent that they are to be used then or at a later time in the commission of the crime, or the entry, with or without permission, of a building, enclosure or other premises of another with the intent to commit any such crime therein or thereon shall constitute an attempt to commit the crime.~~]

(1) (a) An actor that attempts to commit a crime under this part is punishable for the attempt as prescribed in Section 76-4-102.

(b) In addition to the acts that constitute an attempt to commit a crime under the law of this state, an actor's conduct constitutes an attempt to commit a crime under this part if the actor:

(i) solicits or incites another individual to commit a crime under this part;

(ii) collects or assembles materials with the intent to use the materials to commit a crime under this part; or

(iii) enters, with or without permission, a building, enclosure, or other premises intending to commit a crime under this part.

(2) Prior to the filing of a formal criminal complaint, evidence of an alleged actor's conduct under this section or the name of the actor may not be made public.

Section 115. Section **76-8-805** is amended to read:

76-8-805 . Conspiracy to commit crimes of sabotage.

(1) (a) If two or more [~~persons~~] actors conspire to commit [~~any crime defined by~~] a crime under this part and regardless of whether an additional act is done in furtherance of the conspiracy, each [~~of the persons~~] actor:

(i) is guilty of conspiracy in accordance with Section 76-4-201; and

(ii) notwithstanding Section 76-4-202, is subject to the same punishment as if [~~he~~] the actor had committed the crime [~~which he~~] that the actor conspired to commit[~~, whether or not any act be done in furtherance of the conspiracy. It shall not constitute any~~] .

(b) It is not a defense or ground of suspension of judgment, sentence, or punishment [~~on behalf of any person prosecuted~~]under this section that [~~any of his~~] an actor's fellow conspirators [~~has~~] have been acquitted, [~~has~~] have not been arrested or convicted, or [~~is~~] are amenable to justice or [~~has~~] have been pardoned or otherwise discharged before or after a conviction.

(2) Prior to the filing of a formal criminal complaint, evidence of an alleged actor's conduct under Subsection (1)(a) or the name of the actor may not be made public.

Section 116. Section **76-8-807** is amended to read:

76-8-807 . Trespassing at a war or defense facility.

[~~(1) Any individual, partnership, association, corporation, municipal corporation, or state or any political subdivision thereof engaged in, or preparing to engage in, the manufacture, transportation or storage of any product to be used in the preparation of the United States or of any of the states for defense or for war or in the prosecution of war by the United States, or the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any natural or artificial persons operating any public utility, whose property, except where it fronts on water or where there are entrances for railway cars, vehicles, persons, or things, is surrounded by a fence or wall, or a fence or wall and buildings, may post around his or its property at each gate, entrance, dock, or railway entrance and every one hundred feet of water front a sign reading "No Entry Without Permission." The sign shall also designate a point of entrance or place where application may be made for permission to enter, and permission shall not be denied to any loyal citizen who has a valid right to enter.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits trespassing at a war or defense facility if:

(a) the actor intentionally enters a facility engaged in, or preparing to engage in, the manufacture, transportation, or storage of a product to be used in the preparation of the United States government or of a state government for defense or for war or in the prosecution of war by the United States government;

(b) the actor does not have permission from the owner of the facility to enter; and

(c) the facility has posted signs reading "No Entry Without Permission."

[~~(2)~~] (3) [~~Any person willfully entering property enumerated in Subsection (1), without permission of the owner, shall be guilty of~~] A violation of Subsection (2) is a class C misdemeanor.

(4) (a) A peace officer or individual employed as a watchman, a guard, or in a

supervisory capacity on the premises of a facility under this section may stop an individual found on the premises and detain the individual for the purpose of demanding the individual's name, address, and reason for being on the premises.

(b) If the peace officer or individual employed as a watchman, a guard, or in a supervisory capacity on the premises of a facility under this section has reason to believe that an individual stopped on the facility's premises has no right to be there, the peace officer or employee may:

(i) release the individual; or

(ii) arrest the individual without a warrant on the charge of violating this section.

Section 117. Section **76-8-809** is amended to read:

76-8-809 . Closing or restricting use of highways abutting defense or war facilities -- Posting of notices.

[~~Any individual, partnership, association, corporation, municipal corporation or state or any political subdivision thereof engaged in or preparing to engage in the manufacture, transportation or storage of any product to be used in the preparation of the United States or any of the states for defense or for war or in the prosecution of war by the United States, or in the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any of said natural or artificial persons operating any public utility who has property so used which he or it believes will be endangered if public use and travel is not restricted or prohibited on one or more highways or parts thereof upon which the property abuts, may petition the highway commissioners of any city, town, or county to close one or more of the highways or parts thereof to public use and travel or to restrict by order the use and travel upon one or more of the highways or parts thereof.~~

~~Upon receipt of the petition, the highway commissioners shall set a day for hearing and give notice of the hearing, as a class A notice under Section 63G-30-102, for the city, town, or county, for at least seven days before the day of the hearing. If, after hearing, the highway commissioners determine that the public safety and the safety of the property of the petitioner so require, they shall by suitable order close to public use and travel or reasonably restrict the use of and travel upon one or more of the highways or parts thereof; provided the highway commissioners may issue written permits to travel over the highway so closed or restricted to responsible and reputable persons for a term, under~~

~~conditions and in a form as the commissioners may prescribe. Appropriate notices in letters at least three inches high shall be posted conspicuously at each end of any highway so closed or restricted by an order. The highway commissioners may at any time revoke or modify any order so made~~].

(1) As used in this section:

(a) "Highway" means a place used for travel to or from property, including a private or public street or way.

(b) "Highway commissioner" means an individual, a board, or other body having authority to restrict or close the highway to public use and travel.

(c) "Public utility" means a system owned or operated for public use, including:

(i) a pipeline system;

(ii) a system for gas, electric, heat, water, oil, sewer, telephone, telegraph, radio, railway, or transportation communication;

(iii) a railroad; or

(iv) an airplane.

(2) An individual, a partnership, an association, a corporation, a municipal corporation, the state, or a political subdivision of the state, may petition the highway commissioner of a city, town, or county to close or restrict travel upon a highway if the individual, partnership, association, corporation, municipal corporation, state, or political subdivision is:

(a) engaged in or preparing to engage in the manufacture, transportation, or storage of a product to be used in the preparation of the United States government or a state government for defense, for war, or in the prosecution of war by the United States government; or

(b) (i) (A) manufacturing, transporting, distributing, or storing gas, oil, coal, electricity, or water; or

(B) operating a public utility; and

(ii) believes the gas, oil, electricity, water, or public utility will be endangered if public use and travel is not restricted or prohibited on a highway abutting the property involved in operating the public utility or manufacturing, transporting, distributing, or storing the gas, oil, coal, electricity, or water.

(3) Upon receiving a petition described in Subsection (2), the highway commissioner shall set a day for a public hearing and give notice of the hearing at least seven days before the day on which the hearing will be held, as a class A notice under Section 63G-30-102,

for the city, town, or county.

(4) (a) Subject to Subsection (5), after holding the hearing described in Subsection (3), the highway commissioner may, after determining that public safety and the safety of the property of the petitioner require the closure or restricted use of the highway, issue an order to:

(i) close the highway to all public use and travel; or

(ii) reasonably restrict travel on the highway for the safety of the petitioner's property.

(b) Visible notices at least three inches tall detailing the closure or restriction shall be posted at each end of a highway closed or restricted under this Subsection (4).

(5) A highway commissioner issuing an order under Subsection (4) may issue a permit to a responsible and reputable individual to travel on a closed or restricted highway under conditions set by the highway commissioner.

Section 118. Section **76-8-810** is amended to read:

76-8-810 . Violation of an order closing or restricting a highway.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-809 apply to this section.

(2) An actor commits violation of an order closing or restricting a highway if the actor violates an order issued by a highway commissioner closing or restricting a highway under Section 76-8-809.

(3) [~~Whoever violates any order made under the immediate preceding section shall be guilty of~~] A violation of Subsection (2) is a class C misdemeanor.

Section 119. Section **76-8-811** is amended to read:

76-8-811 . Bargaining rights of employees not impaired by sabotage prevention laws.

Nothing in this part shall be construed to impair, curtail, or destroy the rights of employees and [~~their~~] the employees' representatives to self organize, to form, join, or assist labor organizations, to bargain collectively through representatives of [~~their~~] the employees' own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection as provided by state or federal laws.

Section 120. Section **76-8-901** is amended to read:

76-8-901 . Definitions.

[~~For the purpose of~~] As used in this part:

(1) "Criminal syndicalism" [~~is~~] means the doctrine [~~which~~] that advocates crime, violence, force, arson, destruction of property, sabotage, or other unlawful acts or methods, as a

means of accomplishing or effecting industrial or political ends, or as a means of effecting industrial or political revolution.

(2) "Sabotage" means the unlawful and intentional damage or injury to, or destruction of, real or personal property, [~~in any form whatsoever, of any~~] of an employer or owner by [~~his employees, or by any employer, or by any person at the instance of any employer, or at the instance, request, or instigation of employees, or any other person~~] an individual.

Section 121. Section **76-8-902** is amended to read:

76-8-902 . Advocating criminal syndicalism or sabotage.

[~~Any person who by word of mouth or writing advocates, suggests, or teaches the duty, necessity, propriety, or expediency of crime, criminal syndicalism or sabotage, or who advocates, suggests or teaches the duty, necessity, propriety, or expediency or doing any act of violence, the destruction of or damage to any property, the bodily injury to any person, or the commission of any crime or unlawful act as a means of accomplishing or effecting any industrial or political ends, change or revolution, or who prints, publishes, edits, or issues, or knowingly circulates, sells, or distributes, or publicly displays, any books, pamphlets, paper, handbill, poster, document, or written or printed matter in any form whatsoever, containing, advocating, advising, suggesting, or teaching crime, criminal syndicalism, sabotage, the doing of any act of violence, the destruction of or damage to any property, the injury to any person, or the commission of any crime or unlawful act, as a means of accomplishing, effecting, or bringing about any industrial or political ends or change, or as a means of accomplishing, effecting, or bringing about any industrial or political revolution, or who openly or at all attempts to justify by word of mouth or writing the commission or the attempt to commit sabotage, any act of violence, the destruction of or damage to any property, the injury of any person, or the commission of any crime or unlawful act, with the intent to exemplify, spread, or teach or suggest criminal syndicalism, or organizes, or helps to organize, or becomes a member of, or voluntarily assembles with, any society or assemblage of persons formed to teach or advocate, or which teaches, advocates, or suggests the doctrine of criminal syndicalism or sabotage, or the necessity, propriety, or expediency of doing any act of violence or the commission of any crime or unlawful act as a means of accomplishing or effecting any industrial or political ends, change or revolution, is guilty of a felony of the third degree~~].

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-901 apply to this section.

(2) An actor commits advocating criminal syndicalism or sabotage if the actor:

(a) advocates, suggests, or teaches the duty, necessity, propriety, or expediency of crime, criminal syndicalism, or sabotage;

(b) as a means of accomplishing or effecting industrial or political ends, change, or revolution:

(i) advocates, suggests, or teaches the duty, necessity, propriety, or expediency of performing an act of violence, destroying or damaging property, causing bodily injury to an individual, or committing a crime or unlawful act;

(ii) prints, publishes, edits, or issues, or knowingly circulates, sells, distributes, or publicly displays a book, pamphlet, paper, handbill, poster, document, or written or printed matter in any form, containing, advocating, advising, suggesting, or teaching crime, criminal syndicalism, sabotage, performing an act of violence, the destruction of or damage to property, the injury to an individual, or the commission of a crime or unlawful act; or

(iii) organizes or becomes a member of, or voluntarily assembles with, a society or assemblage of individuals formed to teach or advocate the doctrine of criminal syndicalism or sabotage, or the necessity, propriety, or expediency of doing an act of violence or the commission of a crime or unlawful act; or

(c) with the intent to exemplify, spread, or teach or suggest criminal syndicalism, attempts to justify sabotage, an act of violence, the destruction of or damage to property, the injury of an individual, or the commission of a crime or unlawful act.

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

Section 122. Section **76-8-903** is amended to read:

76-8-903 . Assembling for advocating criminal syndicalism or sabotage.

[~~The assembly or consorting of two or more persons~~]

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-901 apply to this section.

(2) An actor commits assembling for advocating criminal syndicalism or sabotage if the actor, as a means of accomplishing or effecting industrial or political ends, change, or revolution:

(a) assembles with two or more individuals; and

(b) assembles for the purpose of advocating, teaching, or suggesting[-] :

(i) the doctrine of criminal syndicalism[~~, or to advocate, teach, suggest or encourage sabotage, or~~] ; or

(ii) the duty, necessity, propriety, or expediency of [~~doing any~~] performing an act of violence, [~~the destruction of or damage to any~~] destroying or damaging property, [

~~the~~] causing bodily injury to [~~any person, or the commission of any~~] an individual, or committing a crime or unlawful act [~~as a means of accomplishing or effecting any industrial or political ends, change or revolution, is hereby declared unlawful, and every person voluntarily participating therein, or by his presence aiding and instigating the same is guilty of a felony of the third degree~~].

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

Section 123. Section **76-8-904** is amended to read:

76-8-904 . Permitting the use of property for assembly advocating criminal syndicalism or sabotage.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-901 apply to this section.

(2) An actor commits permitting the use of property for assembly advocating criminal syndicalism or sabotage if the actor:

(a) [~~The~~] is an owner, lessee, agent, superintendent, or [~~person~~] individual in charge or occupation of [~~any~~] a place, building, room, or structure[~~, who~~] ; and

(b) knowingly permits [~~therein any~~]assembly or consorting of [~~persons~~] individuals prohibited [~~by the provisions of~~] under Section 76-8-903[~~, or who after notification that the place or premises, or any part thereof, is so used, permits such use to be continued, is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 124. Section **76-8-1201** is amended to read:

76-8-1201 . Definitions.

As used in this part:

(1) "Client" means a person who receives or has received public assistance.

(2) "Overpayment" [~~has the same meaning as~~] means the same as that term is defined in Section 35A-3-102.

(3) "Provider" [~~has the same meaning as defined in Section 26B-9-101~~] means a person or entity that receives compensation from any public assistance program for goods or services provided to a public assistance recipient.

(4) "Public assistance" [~~has the same meaning as~~] means the same as that term is defined in Section 35A-1-102.

Section 125. Section **76-8-1203** is amended to read:

76-8-1203 . Required disclosures by an applicant, a recipient, or a provider of public assistance.

(1) [~~Each person~~] An individual who is 18 years old or older and applies for public

assistance, or who is 18 years old or older and currently receives public assistance, shall disclose to the state agency administering the public assistance each fact that may materially affect the [~~determination of the person's~~] individual's eligibility to receive or continue to receive public assistance, including the [~~person's~~] individual's current:

(a) marital status;

(b) household composition;

(c) employment;

(d) earned and unearned income, as defined by rule;

(e) receipt of monetary and in-kind gifts that may affect the [~~person's~~] individual's eligibility;

(f) assets that may affect the [~~person's~~] individual's eligibility; and

(g) any other material fact or change in circumstance that may affect the determination of [~~that person's~~] the individual's eligibility to receive public assistance benefits, or may affect the amount of benefits for which the [~~person~~] individual is eligible.

[~~(2) A person applying for public assistance who intentionally, knowingly, or recklessly fails to disclose a material fact required to be disclosed under Subsection (1) is guilty of public assistance fraud as provided in Section 76-8-1206.~~]

[~~(3) With the exception of a client receiving public assistance from the Department of Workforce Services or the Department of Health, a client who intentionally, knowingly, or recklessly fails to disclose to the state agency administering the public assistance a change in a material fact required to be disclosed under Subsection (1), within 10 days after the date of the change, is guilty of public assistance fraud as provided in Section 76-8-1206.~~]

[~~(4) A client who intentionally, knowingly, or recklessly fails to disclose to the Department of Workforce Services or the Department of Health at the time of a review or recertification, whichever comes first, a change in a material fact required to be disclosed under Subsection (1) is guilty of public assistance fraud as provided in Section 76-8-1206.~~]

(2) (a) Subject to Subsection (2)(b), a provider that solicits, requests, or receives, actually or constructively, a payment or contribution in the form of an assessment, a payment, a gift, a devise, a bequest, or other means, directly or indirectly, from a client or client's family shall:

(i) notify the state agency administering the public assistance to the client of the amount of the payment or contribution the provider received from the client or the

client's family; and

(ii) provide the notification to the state agency in writing within 10 days after the day on which the payment or contribution was received.

(b) If the payment or contribution described in Subsection (2)(a) is made under an agreement, written or oral, the provider shall notify the state agency administering the public assistance to the client of the payment or contribution within 10 days after the day on which the provider entered into the agreement.

(3) An actor may be charged under Section 76-8-1203.1, 76-8-1203.3, or 76-8-1203.5 for failing to provide information required under this section.

Section 126. Section **76-8-1203.1** is enacted to read:

76-8-1203.1 . Public assistance fraud by an applicant for public assistance.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-1201 apply to this section.

(2) An actor commits public assistance fraud by an applicant for public assistance if the actor intentionally, knowingly, or recklessly:

(a) applies for public assistance; and

(b) fails to disclose a material fact required to be disclosed under Subsection 76-8-1203 (1).

(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied:

(a) a second degree felony if the value is or exceeds $5,000;

(b) a third degree felony if the value is or exceeds $1,500 but is less than $5,000;

(c) a class A misdemeanor if the value is or exceeds $500 but is less than $1,500; or

(d) a class B misdemeanor if the value is less than $500.

(4) It is not a defense to prosecution under this section that the actor repaid the funds or benefits obtained in violation of this section.

(5) (a) In determining the value of payments, assistance, or other benefits received to determine the penalty level of an actor's conduct under Subsection (3), the value is calculated by aggregating the values of each instance of public assistance fraud committed by the actor as part of the same facts and circumstances or a related series of facts and circumstances.

(b) The value of a benefit received by an individual is the ordinary or usual charge for similar benefits in the private sector.

(6) The provisions of Section 35A-1-503 apply to a prosecution brought under this section.

Section 127. Section **76-8-1203.3** is enacted to read:

76-8-1203.3 . Public assistance fraud by a recipient of public assistance.

(1) (a) As used in this section, "SNAP benefit" means the same as that term is defined in Section 35A-1-102.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-1201 apply to this section.

(2) An actor commits public assistance fraud by a recipient of public assistance if the actor:

(a) (i) except as provided in Subsection (2)(b), is receiving public assistance administered by a state agency; and

(ii) intentionally, knowingly, or recklessly fails to disclose to the state agency administering the public assistance to the actor of a change of a material fact required to be disclosed under Subsection 76-8-1203(1) within 10 days after the day on which the change occurred;

(b) (i) is receiving public assistance from the Department of Workforce Services or the Department of Health and Human Services; and

(ii) at the time of a review or recertification, whichever comes first, intentionally, knowingly, or recklessly fails to disclose a change of a material fact required to be disclosed under Subsection 76-8-1203(1);

(c) in a manner not allowed by law, intentionally, knowingly, or recklessly uses, transfers, acquires, traffics in, falsifies, or possesses:

(i) SNAP benefits;

(ii) a SNAP benefit identification card;

(iii) a certificate of eligibility for medical services;

(iv) a Medicaid identification card;

(v) a fund transfer instrument;

(vi) a payment instrument; or

(vii) a public assistance warrant;

(d) (i) is receiving public assistance;

(ii) acquires income or resources in excess of the amount the actor previously reported to the state agency administering the public assistance to the actor; and

(iii) fails to notify the state agency to which the actor previously reported within 10 days after the day on which the actor acquired the excess income or resources;

(e) (i) fails to disclose a material fact required to be disclosed under Subsection 76-8-1203(1) or notify a state agency under Subsection 76-8-1203(2); and

(ii) (A) intends to obtain or help another individual obtain an overpayment; or

(B) obtains an overpayment, unauthorized payment, or benefit; or

(f) receives an unauthorized payment or benefit as a result of unlawful acts described in this section, Section 76-8-1203.3, Section 76-8-1203.5, or Section 76-8-1203.7.

(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied:

(a) a second degree felony if the value is or exceeds $5,000;

(b) a third degree felony if the value is or exceeds $1,500 but is less than $5,000;

(c) a class A misdemeanor if the value is or exceeds $500 but is less than $1,500; or

(d) a class B misdemeanor if the value is less than $500.

(4) It is not a defense to prosecution under this section that the actor repaid the funds or benefits obtained in violation of this section.

(5) (a) In determining the value of payments, assistance, or other benefits received to determine the penalty level of an actor's conduct under Subsection (3), the value is calculated by aggregating the values of each instance of public assistance fraud committed by the actor as part of the same facts and circumstances or a related series of facts and circumstances.

(b) The value of a benefit received by an individual is the ordinary or usual charge for similar benefits in the private sector.

(6) The provisions of Section 35A-1-503 apply to a prosecution brought under this section.

(7) Incidents of trafficking in SNAP benefits that occur within a six-month period, committed by an individual or coconspirators, are deemed to be a related series of facts and circumstances regardless of whether the transactions are conducted with a variety of unrelated parties.

Section 128. Section **76-8-1203.5** is enacted to read:

76-8-1203.5 . Public assistance fraud by a provider.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-1201 apply to this section.

(2) An actor commits public assistance fraud by a provider if the actor:

(a) is a provider; and

(b) intentionally, knowingly, or recklessly:

(i) receives a payment after failing to comply with the requirements in Subsection 76-8-1203(1) or 76-8-1203(2);

(ii) files a claim for payment under a state or federally funded public assistance program for goods or services not provided to or for a client under that program;

(iii) files or falsifies a claim, report, or document required by a state or federal law, a rule, or a provider agreement for goods or services not authorized under the state

or federally funded public assistance program for which the goods or services were provided;

(iv) fails to credit the state for payments received from other sources;

(v) bills a client, or the client's family, for:

(A) goods or services not provided; or

(B) an amount greater than that allowed by law or rule; or

(vi) fails to comply with the notification requirements under Subsection 76-8-1203(2).

(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied:

(a) a second degree felony if the value is or exceeds $5,000;

(b) a third degree felony if the value is or exceeds $1,500 but is less than $5,000;

(c) a class A misdemeanor if the value is or exceeds $500 but is less than $1,500; or

(d) a class B misdemeanor if the value is less than $500.

(4) It is not a defense to prosecution under this section that the actor repaid the funds or benefits obtained in violation of this section.

(5) (a) In determining the value of payments, assistance, or other benefits received to determine the penalty level of an actor's conduct under Subsection (3), the value is calculated by aggregating the values of each instance of public assistance fraud committed by the actor as part of the same facts and circumstances or a related series of facts and circumstances.

(b) The value of a benefit received by an individual is the ordinary or usual charge for similar benefits in the private sector.

(6) This section does not apply to offenses by providers under the state's Medicaid program that are actionable under Title 26B, Chapter 3, Part 11, Utah False Claims Act.

(7) The provisions of Section 35A-1-503 apply to a prosecution brought under this section.

Section 129. Section **76-8-1203.7** is enacted to read:

76-8-1203.7 . Fraudulently misappropriating public assistance funds.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-1201 apply to this section.

(2) An actor commits fraudulently misappropriating public assistance funds if the actor:

(a) (i) is an administrator of a state or federally funded public assistance program; and

(ii) while performing the actor's duties as an administrator, intentionally, knowingly, or recklessly fraudulently misappropriates funds exchanged for:

(A) SNAP benefits;

(B) an identification card;

(C) a certificate of eligibility for medical services;

(D) a Medicaid identification card; or

(E) other public assistance the actor has been entrusted with or that has come into the actor's possession as a result of the actor's duties; or

(b) (i) is an individual entrusted with:

(A) SNAP benefits;

(B) an identification card;

(C) a certificate of eligibility for medical services;

(D) a Medicaid identification card; or

(E) other public assistance with which the individual has been entrusted; and

(ii) intentionally, knowingly, or recklessly fraudulently misappropriates funds exchanged for a benefit described in Subsection (2)(b)(i) with which the individual has been entrusted.

(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied:

(a) a second degree felony if the value is or exceeds $5,000;

(b) a third degree felony if the value is or exceeds $1,500 but is less than $5,000;

(c) a class A misdemeanor if the value is or exceeds $500 but is less than $1,500; or

(d) a class B misdemeanor if the value is less than $500.

(4) It is not a defense to prosecution under this section that the actor repaid the funds or benefits obtained in violation of this section.

(5) (a) In determining the value of payments, assistance, or other benefits received to determine the penalty level of an actor's conduct under Subsection (3), the value is calculated by aggregating the values of each instance of public assistance fraud committed by the actor as part of the same facts and circumstances or a related series of facts and circumstances.

(b) The value of a benefit received by an individual is the ordinary or usual charge for similar benefits in the private sector.

(6) The provisions of Section 35A-1-503 apply to a prosecution brought under this section.

Section 130. Section **76-8-1207** is amended to read:

76-8-1207 . Evidence in criminal actions for public assistance fraud.

In [~~any~~] a criminal action [~~pursuant to~~] under this part:

(1) a paid state warrant made to the order of [~~a party~~] an individual or a payment made through an electronic benefit card issued to [~~a party~~] an individual constitutes prima facie

evidence that the [~~party~~] individual received financial assistance from the state; and

(2) all of the records in the custody of the [~~department~~] state agency administering public assistance relating to the application for, verification of, issuance of, receipt of, and use of public assistance constitute records of regularly conducted activity within the meaning of the exceptions to the hearsay rule of evidence[~~;~~] .

[~~(3) the value of the benefits received shall be based on the ordinary or usual charge for similar benefits in the private sector; and~~]

[~~(4) the repayment of funds or other benefits obtained in violation of the provisions of this part constitutes no defense to, or ground for dismissal of, that action.~~]

Section 131. Section **76-8-1301** is amended to read:

76-8-1301 . False statement to obtain or increase unemployment compensation.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

[~~(a) A person who makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, ~~]

(2) An actor commits false statement to obtain or increase unemployment compensation if the actor, to obtain or increase a benefit or other payment under Title 35A, Chapter 4, Employment Security Act, or under the Unemployment Compensation Law of any state or of the federal government[~~ for any person is guilty of unemployment insurance fraud.~~] :

(a) makes a false statement or representation, knowing the representation is false; or

(b) knowingly fails to disclose a material fact.

[~~(2) (a) An officer or agent of an employing unit as defined in Section 35A-4-202 or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of unemployment compensation benefits to an individual entitled to those benefits, or to avoid becoming or remaining a subject employer or to avoid or reduce any contribution or other payment required from an employing unit under Title 35A, Chapter 4, Employment Security Act, or under the Unemployment Compensation Law of any state or of the federal government, or who willfully fails or refuses to make a contribution or other payment or to furnish any report required in Title 35A, Chapter 4, Employment Security Act, or to produce or permit the inspection or copying of records as required under that chapter is guilty of unemployment insurance fraud.~~]

[~~(b) A violation of Subsection (2)(a) is:~~]

[~~(i) a class B misdemeanor when the value of the money obtained or sought to be obtained~~

~~is less than $500;~~]

[~~(ii) a class A misdemeanor when the value of the money obtained or sought to be obtained is or exceeds $500 but is less than $1,500;~~]

[~~(iii) a third degree felony when the value of the money obtained or sought to be obtained is or exceeds $1,500 but is less than $5,000; or~~]

[~~(iv) a second degree felony when the value of the money obtained or sought to be obtained is or exceeds $5,000.~~]

[~~(3) (a) A person who willfully violates any provision of Title 35A, Chapter 4, Employment Security Act, or any order made under that chapter, the violation of which is made unlawful or the observance of which is required under the terms of that chapter, and for which a penalty is neither prescribed in that chapter nor provided by any other applicable statute is guilty of a class A misdemeanor.~~]

[~~(b) Each day a violation of Subsection (3)(a) continues shall be a separate offense.~~]

[~~(4) A person is guilty of a class C misdemeanor if:~~]

[~~(a) as an employee of the Department of Workforce Services, in willful violation of Section 35A-4-312, the employee makes a disclosure of information obtained from an employing unit or individual in the administration of Title 35A, Chapter 4, Employment Security Act; or~~]

[~~(b) the person has obtained a list of applicants for work or of claimants or recipients of benefits under Title 35A, Chapter 4, Employment Security Act, and uses or permits the use of the list for any political purpose.~~]

[~~(b)~~] (3) (a) A violation of Subsection [~~(1)(a)~~] (2) is:

(i) a class B misdemeanor [~~when~~] if the value of the money obtained or sought to be obtained is less than $500;

(ii) a class A misdemeanor [~~when~~] if the value of the money obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(iii) a third degree felony [~~when~~] if the value of the money obtained or sought to be obtained is or exceeds $1,500 but is less than $5,000; or

(iv) a second degree felony [~~when~~] if the value of the money obtained or sought to be obtained is or exceeds $5,000.

[~~(c)~~] (b) The determination of the degree of an offense under Subsection [~~(1)(b) shall be~~] (3)(a) is measured by the total value of all money obtained or sought to be obtained by the unlawful conduct.

Section 132. Section **76-8-1302** is enacted to read:

76-8-1302 . False statement to prevent or reduce unemployment compensation or liability.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits false statement to prevent or reduce unemployment compensation or liability if the actor, to prevent or reduce the payment of unemployment compensation benefits to an individual entitled to those benefits, or to avoid becoming or remaining a subject employer, or to avoid or reduce a contribution or other payment required from an employing unit under Title 35A, Chapter 4, Employment Security Act, or under the Unemployment Compensation Law of a state or of the federal government:

(a) makes a false statement or representation, knowing the representation is false; or

(b) knowingly fails to disclose a material fact.

(3) A violation of Subsection (2) is:

(a) a class B misdemeanor if the value of the money obtained or sought to be obtained is less than $500;

(b) a class A misdemeanor if the value of the money obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(c) a third degree felony if the value of the money obtained or sought to be obtained is or exceeds $1,500 but is less than $5,000; or

(d) a second degree felony if the value of the money obtained or sought to be obtained is or exceeds $5,000.

(4) An actor under this section may include an officer or agent of an employing unit as defined under Section 35A-4-202.

Section 133. Section **76-8-1303** is enacted to read:

76-8-1303 . Unlawful failure to comply with Employment Security Act requirement.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits unlawful failure to comply with Employment Security Act requirements if the actor willfully:

(a) fails or refuses:

(i) to make a contribution or other payment required under Title 35A, Chapter 4, Employment Security Act;

(ii) to furnish a report required under Title 35A, Chapter 4, Employment Security Act; or

(iii) to produce or permit the inspection or copying of records required under Title

35A, Chapter 4, Employment Security Act; or

(b) violates a provision of Title 35A, Chapter 4, Employment Security Act, or an order made under that chapter, for which the violation:

(i) is made unlawful or the observance of which is required under the terms of Title 35A, Chapter 4, Employment Security Act;

(ii) does not have a prescribed penalty in Title 35A, Chapter 4, Employment Security Act, or another applicable statute; and

(iii) is for conduct not described in Subsection (2)(a).

(3) (a) A violation of Subsection (2)(a) is:

(i) a class B misdemeanor if the value of the money obtained or sought to be obtained is less than $500;

(ii) a class A misdemeanor if the value of the money obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(iii) a third degree felony if the value of the money obtained or sought to be obtained is or exceeds $1,500 but is less than $5,000; or

(iv) a second degree felony if the value of the money obtained or sought to be obtained is or exceeds $5,000.

(b) A violation of Subsection (2)(b) is a class A misdemeanor.

(4) An actor under this section may include an officer or agent of an employing unit as defined under Section 35A-4-202.

Section 134. Section **76-8-1304** is enacted to read:

76-8-1304 . Unlawful use or disclosure of employment information.

(1) (a) As used in this section, "employing unit" means the same as that term is defined in Section 35A-4-202.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits unlawful use or disclosure of employment information if the actor:

(a) (i) is an employee of the Department of Workforce Services; and

(ii) willfully violates Section 35A-4-312 by making a disclosure of information obtained from an employing unit or individual in the administration of Title 35A, Chapter 4, Employment Security Act; or

(b) (i) obtains a list of applicants for work or of claimants or recipients of benefits under Title 35A, Chapter 4, Employment Security Act; and

(ii) uses or permits the use of the list described in Subsection (2)(b)(i) for a political purpose.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 135. Section **76-8-1402** is amended to read:

76-8-1402 . Disruption of activity in or near school building.

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

(i) (A) "Chief administrator" means the principal of a school or the chief administrator of a school that does not have a principal.

(B) "Chief administrator" includes the chief administrator's designee or representative.

(ii) "School" means a public or private kindergarten, elementary, or secondary school through grade 12.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) In the absence of a local ordinance or other controlling law governing the conduct described in this Subsection [~~(1), a person is guilty of an offense under Subsection (2) who,~~] (2), an actor commits disruption of activity in or near school building if the actor, while on a street, sidewalk, or public way adjacent to [~~any~~] a school building or ground:

(a) [~~by his or her presence or acts, ~~]materially disrupts the peaceful conduct of school activities by the actor's presence or act; and

(b) remains upon the place under Subsection [~~(1)(a)~~] (2)(a) after being asked to leave by the chief administrator of that school.

[~~(2) (a) A violation of Subsection (1) is subject to the penalties under Subsection (2)(b) unless the violation constitutes another offense subject to a greater penalty.~~]

[~~(b) (i) The~~]

(3) (a) Except as provided under Subsection (4), a first [~~and~~] or second violation of Subsection [~~(1) are~~] (2) is a class B [~~misdemeanors~~] misdemeanor.

(b) Except as provided under Subsection (4), a third or subsequent violation of Subsection (2) is a class A misdemeanor.

[~~(ii) A third and any subsequent violations of Subsection (1) are class A misdemeanors~~]

(4) If an actor's conduct violates Subsection (2) and the actor's conduct also amounts to a violation of another offense with a greater penalty, the offense with the greater penalty applies.

Section 136. Section **76-8-1403** is amended to read:

76-8-1403 . Unlawful evasion of law enforcement by entering school property--Restitution.

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

[~~(a)~~] (i) "School" means [~~any~~] a public or private kindergarten, elementary, or secondary school through grade 12, including all buildings and property of the school.

[~~(b)~~] (ii) "School property" means real property:

[~~(i)~~] (A) that is owned or occupied by a public or private school; or

[~~(ii)~~] (B) [~~(A)~~] (I) that is temporarily occupied by students for a school-related activity or program; and

[~~(B)~~] (II) regarding which, during the time the activity or program is being conducted, the main use of the real property is allocated to participants in the activity or program.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of the class A misdemeanor of evading~~] An actor commits unlawful evasion of law enforcement [~~while on~~] by entering school property[~~, if the person~~] if the actor enters onto school property when:

(a) students are attending the school or students are participating in any school-related activity or program on school property; and

(b) the [~~person~~] actor is in the act of fleeing or evading, or attempting to flee or evade, pursuit or apprehension by [~~any~~] a peace officer.

(3) A violation of Subsection (2) is a class A misdemeanor.

[~~(3)~~] (4) It is not a defense to a violation of this section that the [~~person~~] actor did not know that the [~~person~~] actor had entered onto school property.

[~~(4)~~] (5) As a part of the sentence for violation of this section, the court shall order the [~~defendant~~] actor to reimburse the school for costs incurred by the school in responding to the [~~defendant's~~] actor's presence on the school property.

[~~(5)~~] (6) The offense under this section[~~ of evading law enforcement while on school property~~] is a separate offense from a violation of:

(a) [~~Section 41-6a-210, regarding~~]failure to respond to [~~an~~]officer's signal to stop under Section 41-6a-210; or

(b) [~~Section 76-8-305.5, regarding~~]failure to stop at the command of a peace officer under Section 76-8-305.5.

Section 137. Section **76-9-802** is amended to read:

76-9-802 . Definitions.

As used in this part:

(1) "Criminal street gang" means an organization, association in fact, or group of three or

more persons, whether operated formally or informally:

(a) that is currently in operation;

(b) that has as one of its primary activities the commission of one or more predicate gang crimes;

(c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

(d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.

(2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of harm for the purpose of causing an individual to act or refrain from acting.

(3) "Minor" means a person younger than 18 years old.

(4) "Pattern of criminal gang activity" means:

(a) committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years;

(b) the predicate gang crimes are:

(i) committed by two or more persons; or

(ii) committed by an individual at the direction of, or in association with a criminal street gang; and

(c) the criminal activity was committed with the specific intent to promote, further, or assist in any criminal conduct by members of the criminal street gang.

(5) (a) "Predicate gang crime" means any of the following offenses:

(i) Title 41, Chapter 1a, Motor Vehicle Act:

(A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;

(B) Section 41-1a-1315, regarding false evidence of title and registration;

(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;

(D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an identification number; or

(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;

(ii) any criminal violation of the following provisions:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;

(iv) Title 76, Chapter 5, Part 2, Criminal Homicide;

(v) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;

(vi) [~~any~~] a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

(vii) Title 76, Chapter 6, Part 1, Property Destruction;

(viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(ix) Title 76, Chapter 6, Part 3, Robbery;

(x) [~~any~~] a felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76, Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;

(xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

(xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;

(xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

(xiv) [~~Section 76-8-508, which includes~~]tampering with a witness under Section 76-8-508;

(xv) [~~Section 76-8-508.3, which includes~~]retaliation against a witness[~~or~~] , victim, or informant under Section 76-8-509.3;

(xvi) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

[~~(xvi)~~] (xvii) [~~Section 76-8-509, which includes~~]extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;

[~~(xvii)~~] (xviii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the violation occurs at an official meeting;

[~~(xviii)~~] (xix) Title 76, Chapter 10, Part 3, Explosives;

[~~(xix)~~] (xx) Title 76, Chapter 10, Part 5, Weapons;

[~~(xx)~~] (xxi) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;

[~~(xxi)~~] (xxii) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

[~~(xxii)~~] (xxiii) [~~Section 76-10-1801, which addresses~~]communications fraud under Section 76-10-1801;

[~~(xxiii)~~] (xxiv) Title 76, Chapter 10, Part 19, Money Laundering and Currency

Transaction Reporting Act; or

[~~(xxiv)~~] (xxv) [~~Section 76-10-2002, which addresses~~]burglary of a research facility under Section 76-10-2002.

(b) "Predicate gang crime" also includes:

(i) any state or federal criminal offense that by its nature involves a substantial risk that physical force may be used against another in the course of committing the offense; and

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of any offense in Subsection (4)(a) if committed in this state.

Section 138. Section **76-9-902** is amended to read:

76-9-902 . Definitions.

As used in this part:

(1) "Criminal street gang" means an organization, association in fact, or group of three or more persons, whether operated formally or informally:

(a) that is currently in operation;

(b) that has as one of its substantial activities the commission of one or more predicate gang crimes;

(c) that has, as a group, an identifying name or an identifying sign or symbol, or both; and

(d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.

(2) "Gang loitering" means a person remains in one place under circumstances that would cause a reasonable person to believe that the purpose or effect of that behavior is to enable or facilitate a criminal street gang to:

(a) establish control over one or more identifiable areas;

(b) intimidate others from entering those areas; or

(c) conceal illegal activities.

(3) "Pattern of criminal gang activity" means committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years, if the predicate gang crimes are committed:

(a) (i) by two or more persons; or

(ii) by an individual at the direction of or in association with a criminal street gang; and

(b) with the specific intent to promote, further, or assist in any criminal conduct by members of a criminal street gang.

(4) (a) "Predicate gang crime" means any of the following offenses:

(i) [~~any~~] a criminal violation of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(ii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;

(iii) Title 76, Chapter 5, Part 2, Criminal Homicide;

(iv) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;

(v) [~~any~~] a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

(vi) Title 76, Chapter 6, Part 1, Property Destruction;

(vii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(viii) Title 76, Chapter 6, Part 3, Robbery;

(ix) [~~any~~] a felony offense under Title 76, Chapter 6, Part 4, Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;

(x) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

(xi) Title 76, Chapter 6, Part 11, Identity Fraud Act;

(xii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

(xiii) [~~Section 76-8-508, which includes~~]tampering with a witness under Section 76-8-508;

(xiv) [~~Section 76-8-508.3, which includes~~]retaliation against a witness[~~or~~] , victim, or informant under Section 76-8-508.3;

(xv) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

[~~(xv)~~] (xvi) [~~Section 76-8-509, which includes~~]extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;

[~~(xvi)~~] (xvii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the violation occurs at an official meeting;

[~~(xvii)~~] (xviii) Title 76, Chapter 10, Part 3, Explosives;

[~~(xviii)~~] (xix) Title 76, Chapter 10, Part 5, Weapons;

[~~(xix)~~] (xx) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;

[~~(xx)~~] (xxi) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

[~~(xxi)~~] (xxii) [~~Section 76-10-1801, which addresses~~]communications fraud under Section 76-10-1801;

[~~(xxii)~~] (xxiii) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act;

[~~(xxiii)~~] (xxiv) [~~Section 76-10-2002, which addresses~~]burglary of a research facility[~~;~~ ~~and~~] under Section 76-10-2002; or

[~~(xxiv)~~] (xxv) Title 41, Chapter 1a, Motor Vehicle Act:

(A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;

(B) Section 41-1a-1315, regarding false evidence of title and registration;

(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;

(D) Section 41-1a-1317, regarding selling or buying a vehicle without an identification number; and

(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number.

(b) "Predicate gang crime" also includes:

(i) any state or federal criminal offense that by its nature involves a substantial risk that physical force may be used against another in the course of committing the offense; and

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute any offense in Subsection (4)(a) if committed in this state.

(5) (a) "Public place" means any location or structure to which the public or a substantial group of the public has access, and includes:

(i) a sidewalk, street, or highway;

(ii) a public park, public recreation facility, or any other area open to the public;

(iii) a shopping mall, sports facility, stadium, arena, theater, movie house, or playhouse, or the parking lot or structure adjacent to any of these; and

(iv) the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and businesses.

(b) "Public place" includes the lobbies, hallways, elevators, restaurants and other dining areas, and restrooms of any of the locations or structures under Subsection (5)(a).

Section 139. Section **76-9-1008** is amended to read:

76-9-1008 . Proof of immigration status required to receive public benefits.

(1) (a) An agency that provides state or local public benefits as defined in 8 U.S.C. Sec. 1621 shall comply with Section 63G-12-402 and shall also comply with this section, except:

(i) as provided in Subsection 63G-12-402(3)(g) or (k); or

(ii) when compliance is exempted by federal law or when compliance could reasonably be expected to be grounds for the federal government to withhold federal Medicaid funding.

(b) The agency shall verify a person's lawful presence in the United States by requiring that the applicant under this section sign a certificate under penalty of perjury, stating that the applicant:

(i) is a United States citizen; or

(ii) is a qualified alien as defined by 8 U.S.C. Sec. 1641.

(c) The certificate under Subsection (1)(b) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(d) The signature under this Subsection (1) may be executed in person or electronically.

(e) When an applicant who is a qualified alien has executed the certificate under this section, the applicant's eligibility for benefits shall be verified by the agency through the federal SAVE program or an equivalent program designated by the United States Department of Homeland Security.

(2) Any person who knowingly and willfully makes a false, fictitious, or fraudulent statement of representation in a certificate executed under this section is guilty of public assistance fraud by an applicant for public assistance under Section [~~76-8-1205~~] 76-8-1203.1.

(3) If the certificate constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911, the agency requiring the certificate shall file a complaint with the United States Attorney for the applicable federal judicial district based upon the venue in which the certificate was executed.

(4) Agencies may, with the concurrence of the Utah Attorney General, adopt variations to the requirements of the provisions of this section that provide for adjudication of unique individual circumstances where the verification procedures in this section would impose

unusual hardship on a legal resident of this state.

(5) If an agency under Subsection (1) receives verification that a person making an application for any benefit, service, or license is not a qualified alien, the agency shall provide the information to the local law enforcement agency for enforcement of [~~Section 76-8-1205~~] public assistance fraud by an applicant for public assistance under Section 76-8-1203.1 unless prohibited by federal mandate.

Section 140. Section **76-10-1602** is amended to read:

76-10-1602 . Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) [~~any~~] an act prohibited by the criminal provisions [~~of~~] under Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) [~~any~~] an act prohibited by the criminal provisions [~~of~~] under Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain[~~, in violation of~~] under Title 23A, Wildlife Resources Act, or Section 23A-5-311;

(d) false claims for medical benefits, kickbacks, [~~and any~~] or other [~~act~~] acts prohibited [~~by~~] under Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;

(e) [~~any~~] an act prohibited by the criminal provisions [~~of~~] under Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) [~~any~~] an act prohibited by the criminal provisions [~~of~~] under Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) [~~any~~] an act prohibited by the criminal provisions [~~of~~] under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) [~~any~~] an act prohibited by the criminal provisions [~~of~~] under Title 61, Chapter 1, Utah Uniform Securities Act;

(i) [~~any~~] an act prohibited by the criminal provisions [~~of~~] under Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault [~~or aggravated assault, Sections~~] under Section 76-5-102[~~and~~] ;

(k) aggravated assault under Section 76-5-103;

[~~(k)~~] (l) a threat of terrorism[~~,~~] under Section 76-5-107.3;

[~~(l)~~] (m) a criminal homicide offense[~~, as described in~~] under Section 76-5-201;

[~~(m)~~] (n) kidnapping [~~or aggravated kidnapping, Sections~~] under Section 76-5-301[~~and~~] ;

(o) aggravated kidnapping under Section 76-5-302;

[~~(n)~~] (p) human trafficking[~~,~~] for labor under Section 76-5-308;

(q) human trafficking for sexual exploitation under Section 76-5-308.1;

(r) human smuggling under Section 76-5-308.3;

(s) human trafficking of a child[~~, human smuggling, or aggravated human trafficking, Sections 76-5-308, 76-5-308.1, 76-5-308.3,~~] under Section 76-5-308.5[~~,~~] ;

(t) benefiting from trafficking and human smuggling under Section 76-5-309[~~, and~~] ;

(u) aggravated human trafficking under Section 76-5-310;

[~~(o)~~] (v) sexual exploitation of a minor [~~or~~] under Section 76-5b-201;

(w) aggravated sexual exploitation of a minor[~~, Sections 76-5b-201 and~~] under Section 76-5b-201.1;

[~~(p)~~] (x) arson under Section 76-6-102;

(y) [~~or~~]aggravated arson[~~, Sections 76-6-102 and~~] under Section 76-6-103;

[~~(q)~~] (z) causing a catastrophe[~~,~~] under Section 76-6-105;

[~~(r)~~] (aa) burglary under Section 76-6-202;

(bb) [~~or~~]aggravated burglary[~~, Sections 76-6-202 and~~] under Section 76-6-203;

[~~(s)~~] (cc) burglary of a vehicle[~~,~~] under Section 76-6-204;

[~~(t)~~] (dd) manufacture or possession of an instrument for burglary or theft[~~,~~] under Section 76-6-205;

[~~(u)~~] (ee) robbery under Section 76-6-301;

(ff) [~~or~~]aggravated robbery[~~, Sections 76-6-301 and~~] under Section 76-6-302;

[~~(v)~~] (gg) theft[~~,~~] under Section 76-6-404;

[~~(w)~~] (hh) theft by deception[~~,~~] under Section 76-6-405;

[~~(x)~~] (ii) theft by extortion[~~,~~] under Section 76-6-406;

[~~(y)~~] (jj) receiving stolen property[~~,~~] under Section 76-6-408;

[~~(z)~~] (kk) theft of services[~~,~~] under Section 76-6-409;

[~~(aa)~~] (ll) forgery[~~,~~] under Section 76-6-501;

[~~(bb)~~] (mm) [~~fraudulent use of a credit card, Sections~~] unlawful use of financial transaction card under Section 76-6-506.2[~~,~~] ;

(nn) unlawful acquisition, possession, or transfer of financial transaction card under Section 76-6-506.3[~~,~~ ~~and~~] ;

(oo) financial transaction card offenses under Section 76-6-506.6;

[~~(cc)~~] (pp) deceptive business practices[~~,~~] under Section 76-6-507;

[~~(dd)~~] (qq) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods[~~,~~] under Section 76-6-508;

[~~(ee)~~] (rr) bribery of a labor official[~~,~~] under Section 76-6-509;

[~~(ff)~~] (ss) defrauding creditors[~~,~~] under Section 76-6-511;

[~~(gg)~~] (tt) acceptance of deposit by insolvent financial institution[~~,~~] under Section 76-6-512;

[~~(hh)~~] (uu) unlawful dealing with property by fiduciary[~~,~~] under Section 76-6-513;

[~~(ii)~~] (vv) bribery or threat to influence contest[~~,~~] under Section 76-6-514;

[~~(jj)~~] (ww) making a false credit report[~~,~~] under Section 76-6-517;

[~~(kk)~~] (xx) criminal simulation[~~,~~] under Section 76-6-518;

[~~(ll)~~] (yy) criminal usury[~~,~~] under Section 76-6-520;

[~~(mm)~~] (zz) insurance fraud[~~,~~] under Section 76-6-521;

[~~(nn)~~] (aaa) retail theft[~~,~~] under Section 76-6-602;

[~~(oo)~~] (bbb) computer crimes[~~,~~] under Section 76-6-703;

[~~(pp)~~] (ccc) identity fraud[~~,~~] under Section 76-6-1102;

[~~(qq)~~] (ddd) mortgage fraud[~~,~~] under Section 76-6-1203;

[~~(rr)~~] (eee) sale of a child[~~,~~] under Section 76-7-203;

[~~(ss)~~] (fff) bribery to influence official or political actions[~~,~~] under Section 76-8-103;

[~~(tt)~~] (ggg) [~~threats~~] threat to influence official or political action[~~,~~] under Section 76-8-104;

[~~(uu)~~] (hhh) receiving bribe or bribery by public servant[~~,~~] under Section 76-8-105;

[~~(vv)~~] (iii) receiving bribe [~~or bribery~~]for endorsement of person as a public servant[~~,~~] under Section 76-8-106;

[~~(ww) official misconduct, Sections~~]

(jjj) bribery for endorsement of person as public servant under Section 76-8-106.1;

(kkk) official misconduct based on unauthorized act or failure of duty under Section 76-8-201[~~and~~] ;

(lll) official misconduct concerning inside information under Section 76-8-202;

[~~(xx)~~] (mmm) obstruction of justice[~~,~~] in a criminal investigation or proceeding under Section 76-8-306;

[~~(yy)~~] (nnn) acceptance of bribe or bribery to prevent criminal prosecution[~~,~~] under Section 76-8-308;

(ooo) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;

[~~(zz)~~] (ppp) making a false or inconsistent material [~~statements,~~] statement under Section 76-8-502;

[~~(aaa)~~] (qqq) making a false or inconsistent [~~statements,~~] statement under Section 76-8-503;

[~~(bbb)~~] (rrr) making a written false [~~statements,~~] statement under Section 76-8-504;

[~~(ccc)~~] (sss) tampering with a witness [~~or soliciting or receiving a bribe,~~] under Section 76-8-508;

[~~(ddd)~~] (ttt) retaliation against a witness, victim, or informant[~~,~~] under Section 76-8-508.3;

(uuu) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

[~~(eee)~~] (vvv) extortion or bribery to dismiss a criminal proceeding[~~,~~] under Section 76-8-509;

[~~(fff)~~] (www) tampering with evidence[~~,~~] under Section 76-8-510.5;

[~~(ggg)~~] (xxx) falsification or alteration of a government record[~~,~~] under Section 76-8-511, if the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act;

[~~(hhh)~~] (yyy) public assistance fraud [~~in violation of~~] by an applicant for public assistance under Section [~~76-8-1203, 76-8-1204, or 76-8-1205~~] 76-8-1203.1;

(zzz) public assistance fraud by a recipient of public assistance under Section 76-8-1203.3;

(aaaa) public assistance fraud by a provider under Section 76-8-1203.5;

(bbbb) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;

[~~(iii)~~] (cccc) [~~unemployment insurance fraud,~~] false statement to obtain or increase unemployment compensation under Section 76-8-1301;

(dddd) false statement to prevent or reduce unemployment compensation or liability under Section 76-8-1302;

(eeee) unlawful failure to comply with Employment Security Act requirements under Section 76-8-1303;

(ffff) unlawful use or disclosure of employment information under Section 76-8-1304;

[~~(jjj)~~] (gggg) intentionally or knowingly causing one animal to fight with another[~~,~~] under Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

[~~(kkk)~~] (hhhh) possession, use, or removal of explosives, chemical, or incendiary devices or parts[~~,~~] under Section 76-10-306;

[~~(lll)~~] (iiii) delivery to common carrier, mailing, or placement on premises of an incendiary device[~~,~~] under Section 76-10-307;

[~~(mmm)~~] (jjjj) possession of a deadly weapon with intent to assault[~~,~~] under Section 76-10-507;

[~~(nnn)~~] (kkkk) unlawful marking of pistol or revolver[~~,~~] under Section 76-10-521;

[~~(ooo)~~] (llll) alteration of number or mark on pistol or revolver[~~,~~] under Section 76-10-522;

[~~(ppp)~~] (mmmm) forging or counterfeiting trademarks, trade name, or trade device[~~,~~] under Section 76-10-1002;

[~~(qqq)~~] (nnnn) selling goods under counterfeited trademark, trade name, or trade devices[~~,~~] under Section 76-10-1003;

[~~(rrr)~~] (oooo) sales in containers bearing registered trademark of substituted articles[~~,~~] under Section 76-10-1004;

[~~(sss)~~] (pppp) selling or dealing with article bearing registered trademark or service mark

with intent to defraud[~~,~~] under Section 76-10-1006;

[~~(ttt)~~] (qqqq) gambling[~~,~~] under Section 76-10-1102;

[~~(uuu)~~] (rrrr) gambling fraud[~~,~~] under Section 76-10-1103;

[~~(vvv)~~] (ssss) gambling promotion[~~,~~] under Section 76-10-1104;

[~~(www)~~] (tttt) possessing a gambling device or record[~~,~~] under Section 76-10-1105;

[~~(xxx)~~] (uuuu) confidence game[~~,~~] under Section 76-10-1109;

[~~(yyy)~~] (vvvv) distributing pornographic material[~~,~~] under Section 76-10-1204;

[~~(zzz)~~] (wwww) inducing acceptance of pornographic material[~~,~~] under Section 76-10-1205;

[~~(aaaa)~~] (xxxx) dealing in harmful material to a minor[~~,~~] under Section 76-10-1206;

[~~(bbbb)~~] (yyyy) distribution of pornographic films[~~,~~] under Section 76-10-1222;

[~~(cccc)~~] (zzzz) indecent public displays[~~,~~] under Section 76-10-1228;

[~~(dddd)~~] (aaaaa) prostitution[~~,~~] under Section 76-10-1302;

[~~(cccc)~~] (bbbbb) aiding prostitution[~~,~~] under Section 76-10-1304;

[~~(ffff)~~] (ccccc) exploiting prostitution[~~,~~] under Section 76-10-1305;

[~~(gggg)~~] (ddddd) aggravated exploitation of prostitution[~~,~~] under Section 76-10-1306;

[~~(hhhh)~~] (eeeee) communications fraud[~~,~~] under Section 76-10-1801;

[~~(iiii)~~] (fffff) [~~any~~] an act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

[~~(jjjj)~~] (ggggg) vehicle compartment for contraband[~~,~~] under Section 76-10-2801;

[~~(kkkk)~~] (hhhhh) [~~any~~] an act prohibited by the criminal provisions of the laws governing taxation in this state; [~~and~~] or

[~~(llll)~~] (iiiii) [~~any~~] an act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 141. Section **77-23a-8** is amended to read:

77-23a-8 . Court order to authorize or approve interception -- Procedure.

(1) The attorney general of the state, any assistant attorney general specially designated by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy district attorney specially designated by the county attorney or by the district attorney, may authorize an application to a judge of competent jurisdiction for an order for an interception of wire, electronic, or oral communications by any law enforcement agency of the state, the federal government or of any political subdivision of the state that is responsible for investigating the type of offense for which the application is made.

(2) The judge may grant the order in conformity with the required procedures when the

interception sought may provide or has provided evidence of the commission of:

(a) [~~any~~] an act:

(i) prohibited by the criminal provisions of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) punishable by a term of imprisonment of more than one year;

(b) [~~any~~] an act prohibited by the criminal provisions [~~of~~] under Title 61, Chapter 1, Utah Uniform Securities Act, and punishable by a term of imprisonment of more than one year;

(c) an offense:

(i) of:

(A) attempt[~~,~~] under Section 76-4-101;

(B) conspiracy[~~,~~] under Section 76-4-201;

(C) solicitation[~~,~~] under Section 76-4-203; and

(ii) punishable by a term of imprisonment of more than one year;

(d) a threat of terrorism offense punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-5-107.3;

(e) (i) aggravated murder[~~,~~] under Section 76-5-202;

(ii) murder[~~,~~] under Section 76-5-203; or

(iii) manslaughter[~~,~~] under Section 76-5-205;

(f) (i) kidnapping[~~,~~] under Section 76-5-301;

(ii) child kidnapping[~~,~~] under Section 76-5-301.1;

(iii) aggravated kidnapping[~~,~~] under Section 76-5-302;

(iv) human trafficking[~~,~~] for labor under Section 76-5-308[~~,~~] ;

(v) human trafficking for sexual exploitation under Section 76-5-308.1[~~,~~] ;

(vi) [~~or~~] human trafficking of a child under Section 76-5-308.5[~~, or~~] ;

(vii) human smuggling[~~,~~] under Section 76-5-308.3;[~~ or~~]

[~~(v)~~] (viii) aggravated human trafficking[~~,~~] under Section 76-5-310[~~,~~] ; or

(ix) aggravated human smuggling[~~,~~] under Section 76-5-310.1;

(g) (i) arson[~~,~~] under Section 76-6-102; or

(ii) aggravated arson[~~,~~] under Section 76-6-103;

(h) (i) burglary[~~,~~] under Section 76-6-202; or

(ii) aggravated burglary[~~,~~] under Section 76-6-203;

(i) (i) robbery[~~,~~] under Section 76-6-301; or

(ii) aggravated robbery[~~,~~] under Section 76-6-302;

(j) an offense:

(i) of:

(A) theft[~~,~~] under Section 76-6-404;

(B) theft by deception[~~,~~] under Section 76-6-405; or

(C) theft by extortion[~~,~~] under Section 76-6-406; and

(ii) punishable by a maximum term of imprisonment of more than one year;

(k) an offense of receiving stolen property that is punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-6-408;

(l) a financial card transaction offense punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-6-506.2, 76-6-506.3, or 76-6-506.6;

(m) bribery of a labor official[~~,~~] under Section 76-6-509;

(n) bribery or threat to influence a publicly exhibited contest[~~,~~] under Section 76-6-514;

(o) a criminal simulation offense punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-6-518;

(p) criminal usury[~~,~~] under Section 76-6-520;

(q) insurance fraud punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-6-521;

(r) a violation [~~of~~] under Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-6-703;

(s) bribery to influence official or political actions[~~,~~] under Section 76-8-103;

(t) misusing public money or public property[~~,~~] under Section 76-8-402;

(u) tampering with a witness [~~or soliciting or receiving a bribe,~~] under Section 76-8-508;

(v) retaliation against a witness, victim, or informant[~~,~~] under Section 76-8-508.3;

(w) tampering [~~with a juror, retaliation~~] or retaliating against a juror[~~,~~] under Section 76-8-508.5;

(x) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

[~~(x)~~] (y) extortion or bribery to dismiss a criminal proceeding[~~,~~] under Section 76-8-509;

[~~(y)~~] (z) obstruction of justice[~~,~~] in a criminal investigation or proceeding under Section 76-8-306;

(aa) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;

[~~(z)~~] (bb) destruction of property to interfere with [~~preparation~~] preparations for defense or war[~~,~~] under Section 76-8-802;

[~~(aa)~~] (cc) an attempt to commit crimes of sabotage[~~,~~] under Section 76-8-804;

[~~(bb)~~] (dd) conspiracy to commit crimes of sabotage[~~,~~] under Section 76-8-805;

[~~(cc)~~] (ee) advocating criminal syndicalism or sabotage[~~,~~] under Section 76-8-902;

[~~(dd)~~] (ff) [~~assembly~~] assembling for advocating criminal syndicalism or sabotage[~~,~~] under Section 76-8-903;

[~~(ee)~~] (gg) riot punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-9-101;

[~~(ff)~~] (hh) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-9-301.1;

[~~(gg)~~] (ii) possession, use, or removal of an explosive, chemical, or incendiary device and parts[~~,~~] under Section 76-10-306;

[~~(hh)~~] (jj) delivery to a common carrier or mailing of an explosive, chemical, or incendiary device[~~,~~] under Section 76-10-307;

[~~(ii)~~] (kk) exploiting prostitution[~~,~~] under Section 76-10-1305;

[~~(jj)~~] (ll) aggravated exploitation of prostitution[~~,~~] under Section 76-10-1306;

[~~(kk)~~] (mm) bus hijacking or assault with intent to commit hijacking[~~,~~] under Section 76-10-1504;

[~~(ll)~~] (nn) discharging firearms and hurling missiles[~~,~~] under Section 76-10-1505;

[~~(mm)~~] (oo) violations [~~of~~] under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act, and the offenses listed under the definition of unlawful activity in the act, including the offenses not punishable by a maximum term of imprisonment of more than one year when those offenses are investigated as predicates for the offenses prohibited by the act[~~,~~] under Section 76-10-1602;

[~~(nn)~~] (pp) communications fraud[~~,~~] under Section 76-10-1801;

[~~(oo)~~] (qq) money laundering[~~,~~] under Sections 76-10-1903 and 76-10-1904; or

[~~(pp)~~] (rr) reporting by a person engaged in a trade or business when the offense is punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-10-1906.

Section 142. Section **77-36-1** is amended to read:

77-36-1 . Definitions.

As used in this chapter:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter 3, Divorce.

(4) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" or "domestic violence offense" includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault[~~, as described in~~] under Section 76-5-103;

(b) aggravated cruelty to an animal[~~, as described in~~] under Subsection 76-9-301(4), with the intent to harass or threaten the other cohabitant;

(c) assault[~~, as described in~~] under Section 76-5-102;

(d) criminal homicide[~~, as described in~~] under Section 76-5-201;

(e) harassment[~~, as described in~~] under Section 76-5-106;

(f) electronic communication harassment[~~, as described in~~] under Section 76-9-201;

(g) kidnapping, child kidnapping, or aggravated kidnapping[~~, as described in~~] under Sections 76-5-301, 76-5-301.1, and 76-5-302;

(h) mayhem[~~, as described in~~] under Section 76-5-105;

(i) sexual offenses[~~, as described in~~] under Title 76, Chapter 5, Part 4, Sexual Offenses[~~,~~ ~~and~~] ;

(j) sexual exploitation of a minor [~~and aggravated sexual exploitation of a minor, as described in Sections~~] under Section 76-5b-201[~~, and~~] ;

(k) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

[~~(j)~~] (l) stalking[~~, as described in~~] under Section 76-5-106.5;

[~~(k)~~] (m) unlawful detention [~~or~~] and unlawful detention of a minor[~~, as described in~~] under Section 76-5-304;

[~~(l)~~] (n) violation of a protective order or ex parte protective order[~~, as described in~~] under Section 76-5-108;

[~~(m)~~] (o) [~~any~~] an offense against property [~~described in~~] under Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

[~~(n)~~] (p) possession of a deadly weapon with criminal intent[~~, as described in~~] under

Section 76-10-507;

[~~(o)~~] (q) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle[~~, as described in~~] under Section 76-10-508;

[~~(p)~~] (r) disorderly conduct[~~, as defined in~~] under Section 76-9-102, if a conviction or adjudication of disorderly conduct is the result of a plea agreement in which the perpetrator was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction or adjudication of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(p), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

[~~(q)~~] (s) child abuse[~~, as described in~~] under Section 76-5-114;

[~~(r)~~] (t) threatening use of a dangerous weapon[~~, as described in~~] under Section 76-10-506;

[~~(s)~~] (u) threatening violence[~~, as described in~~] under Section 76-5-107;

[~~(t)~~] (v) tampering with a witness[~~, as described in~~] under Section 76-8-508;

[~~(u)~~] (w) retaliation against a witness[~~ or~~] , victim, [~~as described in~~] or informant under Section 76-8-508.3;

(x) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

[~~(v)~~] (y) unlawful distribution of an intimate image[~~, as described in~~] under Section 76-5b-203[~~, or~~] ;

(z) unlawful distribution of a counterfeit intimate image[~~, as described in~~] under Section 76-5b-205;

[~~(w)~~] (aa) sexual battery[~~, as described in~~] under Section 76-9-702.1;

[~~(x)~~] (bb) voyeurism[~~, as described in~~] under Section 76-9-702.7;

[~~(y)~~] (cc) damage to or interruption of a communication device[~~, as described in~~] under Section 76-6-108; or

[~~(z)~~] (dd) an offense [~~described in~~] under Subsection 78B-7-806(1).

(5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

(6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

(7) "Marital status" means married and living together, divorced, separated, or not married.

(8) "Married and living together" means a couple whose marriage was solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

(9) "Not married" means any living arrangement other than married and living together, divorced, or separated.

(10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

(11) "Pretrial protective order" means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803, pending trial in the criminal case.

(12) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact an individual who is convicted or adjudicated of a domestic violence offense may have with a victim or other specified individuals under Section 78B-7-804.

(13) "Separated" means a couple who have had their marriage solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

(14) "Victim" means a cohabitant who has been subjected to domestic violence.

Section 143. Section **77-36-1.1** is amended to read:

77-36-1.1 . Enhancement of offense and penalty for subsequent domestic violence offenses.

(1) As used in this section:

(a) (i) "Convicted" means a conviction by plea or verdict of a crime or offense.

(ii) "Convicted" includes:

(A) a plea of guilty or guilty with a mental condition;

(B) a plea of no contest; and

(C) the acceptance by the court of a plea in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge is subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(iii) "Convicted" does not include an adjudication in juvenile court.

(b) "Offense against the person" means commission or attempt to commit an offense under Title 76, Chapter 5, Part 1, Assault and Related Offenses, Part 2, Criminal Homicide, Part 3, Kidnapping, Trafficking, and Smuggling, Part 4, Sexual Offenses, or Part 7, Genital Mutilation, by one cohabitant against another.

(c) "Property damage offense" means the commission or attempt to commit an offense under Section 76-6-106 or 76-6-106.1 by one cohabitant against another.

(d) "Qualifying domestic violence offense" means:

(i) a domestic violence offense in Utah; or

(ii) an offense in any other state, or in any district, possession, or territory of the

United States, that would be a domestic violence offense under Utah law.

(2) An individual who is convicted of a domestic violence offense is guilty of a class B misdemeanor if:

(a) the domestic violence offense described in this Subsection (2) is designated by law as a class C misdemeanor; and

(b) the individual commits or is convicted of the domestic violence offense described in this Subsection (2):

(i) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a [~~criminal mischief~~] property damage offense; or

(ii) within five years after the day on which the individual is convicted of a [~~criminal mischief~~] property damage offense.

(3) An individual who is convicted of a domestic violence offense is guilty of a class A misdemeanor if:

(a) the domestic violence offense described in this Subsection (3) is designated by law as a class B misdemeanor; and

(b) the individual commits or is convicted of the domestic violence offense described in this Subsection (3):

(i) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a [~~criminal mischief~~] property damage offense; or

(ii) within five years after the day on which the individual is convicted of a [~~criminal mischief~~] property damage offense.

(4) An individual who is convicted of a domestic violence offense is guilty of a third degree felony if:

(a) the domestic violence offense described in this Subsection (4) is designated by law as a class B misdemeanor offense against the person and the individual:

(i) (A) commits or is convicted of the domestic violence offense described in this Subsection (4) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a [~~criminal mischief~~] property damage offense; and

(B) is convicted of another qualifying domestic violence offense that is not a [~~criminal mischief~~] property damage offense after the day on which the individual is convicted of the qualifying domestic violence offense described in

Subsection (4)(a)(i)(A) and before the day on which the individual is convicted of the domestic violence offense described in this Subsection (4);

(ii) (A) commits or is convicted of the domestic violence offense described in this Subsection (4) within five years after the day on which the individual is convicted of a [~~criminal mischief~~] property damage offense; and

(B) is convicted of another [~~criminal mischief~~] property damage offense after the day on which the individual is convicted of the [~~criminal mischief~~] property damage offense described in Subsection (4)(a)(ii)(A) and before the day on which the individual is convicted of the domestic violence offense described in this Subsection (4); or

(iii) commits or is convicted of the domestic violence offense described in this Subsection (4) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a [~~criminal mischief~~] property damage offense and within five years after the day on which the individual is convicted of a [~~criminal mischief~~] property damage offense; and

(b) (i) the domestic violence offense described in this Subsection (4) is designated by law as a class A misdemeanor; and

(ii) the individual commits or is convicted of the domestic violence offense described in this Subsection (4):

(A) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a [~~criminal mischief~~] property damage offense; or

(B) within five years after the day on which the individual is convicted of a [~~criminal mischief~~] property damage offense.

Section 144. Section **77-37-3** is amended to read:

77-37-3 . Bill of rights.

(1) The bill of rights for victims and witnesses is:

(a) Victims and witnesses have a right to be informed as to the level of protection from intimidation and harm available to them, and from what sources, as they participate in criminal justice proceedings as designated by Section 76-8-508, regarding [~~witness tampering~~] tampering with a witness, and Section 76-8-509, regarding [~~threats against a victim~~] extortion or bribery to dismiss a criminal proceeding. Law enforcement, prosecution, and corrections personnel have the duty to timely provide this information in a form which is useful to the victim.

(b) Victims and witnesses, including children and their guardians, have a right to be informed and assisted as to their role in the criminal justice process. All criminal justice agencies have the duty to provide this information and assistance.

(c) Victims and witnesses have a right to clear explanations regarding relevant legal proceedings; these explanations shall be appropriate to the age of child victims and witnesses. All criminal justice agencies have the duty to provide these explanations.

(d) Victims and witnesses should have a secure waiting area that does not require them to be in close proximity to defendants or the family and friends of defendants. Agencies controlling facilities shall, whenever possible, provide this area.

(e) Victims may seek restitution or reparations, including medical costs, as provided in Title 63M, Chapter 7, Criminal Justice and Substance Abuse, Title 77, Chapter 38b, Crime Victims Restitution Act, and Section 80-6-710. State and local government agencies that serve victims have the duty to have a functional knowledge of the procedures established by the Crime Victim Reparations Board and to inform victims of these procedures.

(f) Victims and witnesses have a right to have any personal property returned as provided in Chapter 11a, Seizure of Property and Contraband, and Chapter 11d, Lost or Mislaid Property. Criminal justice agencies shall expeditiously return the property when it is no longer needed for court law enforcement or prosecution purposes.

(g) Victims and witnesses have the right to reasonable employer intercession services, including pursuing employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process. Officers of the court shall provide these services and shall consider victims' and witnesses' schedules so that activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may request that the responsible agency intercede with employers or other parties.

(h) Victims and witnesses, particularly children, should have a speedy disposition of the entire criminal justice process. All involved public agencies shall establish policies and procedures to encourage speedy disposition of criminal cases.

(i) Victims and witnesses have the right to timely notice of judicial proceedings they are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies have the duty to provide these notifications. Defense counsel and others have the duty to provide timely notice to prosecution of any continuances or other changes that may be required.

(j) Victims of sexual offenses have the following rights:

(i) the right to request voluntary testing for themselves for HIV infection as provided in Section 53-10-803 and to request mandatory testing of the alleged sexual offender for HIV infection as provided in Section 53-10-802;

(ii) the right to be informed whether a DNA profile was obtained from the testing of the rape kit evidence or from other crime scene evidence;

(iii) the right to be informed whether a DNA profile developed from the rape kit evidence or other crime scene evidence has been entered into the Utah Combined DNA Index System;

(iv) the right to be informed whether there is a match between a DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Utah Combined DNA Index System, provided that disclosure would not impede or compromise an ongoing investigation; and

(v) the right to designate a person of the victim's choosing to act as a recipient of the information provided under this Subsection (1)(j) and under Subsections (2) and (3).

(k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency communicate with the victim or the victim's designee regarding the status of DNA testing, absent a specific request received from the victim or the victim's designee.

(2) The law enforcement agency investigating a sexual offense may:

(a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the request of a victim or the victim's designee and is the designated agency to provide that information to the victim or the victim's designee;

(b) require that the victim's request be in writing; and

(c) respond to the victim's request with verbal communication, written communication, or by email, if an email address is available.

(3) The law enforcement agency investigating a sexual offense has the following authority and responsibilities:

(a) If the law enforcement agency determines that DNA evidence will not be analyzed in a case where the identity of the perpetrator has not been confirmed, the law enforcement agency shall notify the victim or the victim's designee.

(b) (i) If the law enforcement agency intends to destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case, the law enforcement agency shall provide written notification of that intention and

information on how to appeal the decision to the victim or the victim's designee of that intention.

(ii) Written notification under this Subsection (3) shall be made not fewer than 60 days prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.

(c) A law enforcement agency responsible for providing information under Subsections (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the victim or the victim's designee, shall advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware.

(d) The law enforcement agency investigating the sexual offense is responsible for informing the victim or the victim's designee of the rights established under Subsections (1)(j)(ii) through (iv) and (2), and this Subsection (3).

(4) Informational rights of the victim under this chapter are based upon the victim providing the current name, address, telephone number, and email address, if an email address is available, of the person to whom the information should be provided to the criminal justice agencies involved in the case.

Section 145. **Repealer.**

This bill repeals:

Section **76-8-314, Threatening elected officials -- "Elected official" defined.**

Section **76-8-315, Threatening elected officials -- Penalties for assault.**

Section **76-8-404, Making profit from or misusing public money or public property -- Disqualification from office -- Criminal penalty.**

Section **76-8-505, False or inconsistent statements -- Proof of falsity of statements -- Irregularities no defense.**

Section **76-8-701, Definitions.**

Section **76-8-702, Purpose.**

Section **76-8-707, Assistance by local authorities.**

Section **76-8-709, Enforcement of laws by local agencies not limited.**

Section **76-8-716, Request for assistance from state and local law enforcement authorities.**

Section **76-8-717, Violations -- Classifications of offenses.**

Section **76-8-801, Definitions.**

Section **76-8-806, Facts kept secret until complaint filed.**

Section **76-8-808, Detention and arrest without warrant of unauthorized persons on posted premises.**

Section **76-8-1101, Criminal offenses and penalties relating to revenue and taxation -- Rulemaking authority -- Statute of limitations.**

Section **76-8-1202, Application of part.**

Section **76-8-1204, Disclosure by provider required -- Penalty.**

Section **76-8-1205, Public assistance fraud defined.**

Section **76-8-1206, Penalties for public assistance fraud.**

Section **76-8-1401, Definitions.**

Section 146. **Effective date.**

This bill takes effect on May 1, 2024.