

**Senator Daniel McCay** proposes the following substitute bill:

**SEX-BASED DESIGNATIONS FOR PRIVACY,  
ANTI-BULLYING, AND WOMEN'S OPPORTUNITIES**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kera Birkeland**

Senate Sponsor: Daniel McCay

**LONG TITLE**

**General Description:**

This bill establishes a standard regarding distinctions on the basis of sex and applies the standard in certain facilities and opportunities where designations on the basis of sex address individual privacy, bullying, and women's opportunities.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ defines certain terms for the entire Utah Code;
- ▶ establishes a legal standard for distinctions on the basis of sex in certain publicly owned and publicly funded circumstances;
- ▶ establishes acceptable and prohibited distinctions on the basis of sex;
- ▶ enacts provisions regarding publicly owned or publicly funded sex-designated shower or locker room facilities where the general public has an expectation of privacy;
- ▶ requires local education agencies to establish a privacy plan with parents and students in certain cases to address gender identity and fear of bullying;
- ▶ establishes components of the crimes of voyeurism and criminal trespass for certain



- 26 actions within a covered sex-designated facility;
- 27       ▶ requires government entities to:
- 28             • report allegations of certain criminal offenses to law enforcement;
- 29             • adopt a privacy compliance plan;
- 30             • provide a single-occupant facility in new construction; and
- 31             • consider the feasibility of certain retrofit or remodel projects;
- 32       ▶ provides indemnification for government entities for certain claims;
- 33       ▶ requires the state auditor to investigate government entity compliance with certain
- 34 requirements;
- 35       ▶ requires the attorney general to impose fines on political subdivisions that fail to
- 36 cure noncompliance that the state auditor identifies;
- 37       ▶ amends certain crimes to establish a reasonable expectation of privacy in public
- 38 restrooms, including enhanced penalties for committing multiple offenses
- 39 concurrently within a public restroom;
- 40       ▶ enacts a criminal offense for loitering in a restroom, shower, or locker room where
- 41 the general public has an expectation of privacy;
- 42       ▶ establishes elements of the crime of emergency reporting abuse for making repeated
- 43 false reports alleging a violation of a sex-designation in a publicly owned or
- 44 publicly funded shower or locker room facility where the general public has an
- 45 expectation of privacy; and
- 46       ▶ makes technical and conforming changes.

47 **Money Appropriated in this Bill:**

48       None

49 **Other Special Clauses:**

50       This bill provides a special effective date.

51 **Utah Code Sections Affected:**

52 AMENDS:

53       **53G-6-1101**, as enacted by Laws of Utah 2022, Chapter 398

54       **53G-8-211**, as last amended by Laws of Utah 2023, Chapter 161

55       **67-3-1**, as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480

56       **67-5-1**, as last amended by Laws of Utah 2023, Chapter 330

- 57 [68-3-12.5](#), as last amended by Laws of Utah 2021, Chapter 93
- 58 [76-6-206](#), as last amended by Laws of Utah 2023, Chapter 111
- 59 [76-9-202](#), as last amended by Laws of Utah 2022, Chapter 161
- 60 [76-9-702](#), as last amended by Laws of Utah 2023, Chapter 123
- 61 [76-9-702.5](#), as last amended by Laws of Utah 2022, Chapter 185
- 62 [76-9-702.7](#), as last amended by Laws of Utah 2023, Chapter 411

63 ENACTS:

- 64 [63G-31-101](#), Utah Code Annotated 1953
- 65 [63G-31-201](#), Utah Code Annotated 1953
- 66 [63G-31-202](#), Utah Code Annotated 1953
- 67 [63G-31-203](#), Utah Code Annotated 1953
- 68 [63G-31-204](#), Utah Code Annotated 1953
- 69 [63G-31-301](#), Utah Code Annotated 1953
- 70 [63G-31-302](#), Utah Code Annotated 1953
- 71 [63G-31-303](#), Utah Code Annotated 1953
- 72 [63G-31-304](#), Utah Code Annotated 1953
- 73 [63G-31-401](#), Utah Code Annotated 1953
- 74 [63G-31-402](#), Utah Code Annotated 1953
- 75 [76-9-702.8](#), Utah Code Annotated 1953



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

78 Section 1. Section **53G-6-1101** is amended to read:

79 **53G-6-1101. Report -- Action plan.**

80 (1) As used in this section:

81 (a) "Gender-designated interscholastic sport" means a sport that is specifically  
82 designated for female or male students.

83 (b) "Interscholastic sport" means an activity in which a student represents the student's  
84 school in the sport in competition against another school.

85 (c) "School" means a public school that sponsors or offers an interscholastic sport in  
86 which students enrolled at the school may participate.

87 (d) "Title IX" means Title IX of the Education Amendments of 1972, 20 U.S.C. Sec.

88 1681 et seq.

89 (2) Before the beginning of each academic year, the athletic director or another  
90 administrator of each school shall report to the school's local governing board regarding:

91 (a) the number and type of interscholastic sports available at the school, categorized by  
92 gender designation;

93 (b) the number of students competing in a gender-designated interscholastic sport at the  
94 school, categorized by gender;

95 (c) the amount of spending that the school devotes to each gender-designated sport,  
96 reported in total amount and on a per-student basis;

97 (d) a comparison and evaluation of designated practice and game locations in  
98 gender-designated interscholastic sports;

99 (e) any information regarding the school's efforts in compliance with Title 63G,  
100 Chapter 31, Part 2, Distinctions on the Basis of Sex, and Title IX [compliance]; and

101 (f) if there is a discrepancy between male-designated and female-designated sports of  
102 10% or greater, an action plan that the school develops to address the discrepancy.

103 (3) An LEA governing board that receives the report described in Subsection (2) shall  
104 review the report in a public board meeting.

105 Section 2. Section **53G-8-211** is amended to read:

106 **53G-8-211. Responses to school-based behavior.**

107 (1) As used in this section:

108 (a) "Evidence-based" means a program or practice that has:

109 (i) had multiple randomized control studies or a meta-analysis demonstrating that the  
110 program or practice is effective for a specific population;

111 (ii) been rated as effective by a standardized program evaluation tool; or

112 (iii) been approved by the state board.

113 (b) "Habitual truant" means a school-age child who:

114 (i) is in grade 7 or above, unless the school-age child is under 12 years old;

115 (ii) is subject to the requirements of Section **53G-6-202**; and

116 (iii) (A) is truant at least 10 times during one school year; or

117 (B) fails to cooperate with efforts on the part of school authorities to resolve the  
118 school-age child's attendance problem as required under Section **53G-6-206**.

- 119 (c) "Minor" means the same as that term is defined in Section 80-1-102.
- 120 (d) "Mobile crisis outreach team" means the same as that term is defined in Section  
121 62A-15-102.
- 122 (e) "Prosecuting attorney" means the same as that term is defined in Subsections  
123 80-1-102(65)(b) and (c).
- 124 (f) "Restorative justice program" means a school-based program or a program used or  
125 adopted by a local education agency that is designed:
- 126 (i) to enhance school safety, reduce school suspensions, and limit referrals to law  
127 enforcement agencies and courts; and
- 128 (ii) to help minors take responsibility for and repair harmful behavior that occurs in  
129 school.
- 130 (g) "School administrator" means a principal of a school.
- 131 (h) "School is in session" means a day during which the school conducts instruction for  
132 which student attendance is counted toward calculating average daily membership.
- 133 (i) "School resource officer" means a law enforcement officer, as defined in Section  
134 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts  
135 with a local education agency to provide law enforcement services for the local education  
136 agency.
- 137 (j) "School-age child" means the same as that term is defined in Section 53G-6-201.
- 138 (k) (i) "School-sponsored activity" means an activity, fundraising event, club, camp,  
139 clinic, or other event or activity that is authorized by a specific local education agency or public  
140 school, according to LEA governing board policy, and satisfies at least one of the following  
141 conditions:
- 142 (A) the activity is managed or supervised by a local education agency or public school,  
143 or local education agency or public school employee;
- 144 (B) the activity uses the local education agency's or public school's facilities,  
145 equipment, or other school resources; or
- 146 (C) the activity is supported or subsidized, more than inconsequentially, by public  
147 funds, including the public school's activity funds or Minimum School Program dollars.
- 148 (ii) "School-sponsored activity" includes preparation for and involvement in a public  
149 performance, contest, athletic competition, demonstration, display, or club activity.

150 (1) (i) "Status offense" means an offense that would not be an offense but for the age of  
151 the offender.

152 (ii) "Status offense" does not mean an offense that by statute is a misdemeanor or  
153 felony.

154 (2) This section applies to a minor enrolled in school who is alleged to have committed  
155 an offense on school property where the student is enrolled:

156 (a) when school is in session; or

157 (b) during a school-sponsored activity.

158 (3) If a minor is alleged to have committed an offense on school property that is a class  
159 C misdemeanor, an infraction, or a status offense, the school administrator, the school  
160 administrator's designee, or a school resource officer may refer the minor:

161 (a) to an evidence-based alternative intervention, including:

162 (i) a mobile crisis outreach team;

163 (ii) a youth services center, as defined in Section 80-5-102;

164 (iii) a youth court or comparable restorative justice program;

165 (iv) an evidence-based alternative intervention created and developed by the school or  
166 school district;

167 (v) an evidence-based alternative intervention that is jointly created and developed by a  
168 local education agency, the state board, the juvenile court, local counties and municipalities,  
169 the Department of Health and Human Services; or

170 (vi) a tobacco cessation or education program if the offense is a violation of Section  
171 76-10-105; or

172 (b) for prevention and early intervention youth services, as described in Section  
173 80-5-201, by the Division of Juvenile Justice Services if the minor refuses to participate in an  
174 evidence-based alternative intervention described in Subsection (3)(a).

175 (4) Except as provided in Subsection (5), if a minor is alleged to have committed an  
176 offense on school property that is a class C misdemeanor, an infraction, or a status offense, a  
177 school administrator, the school administrator's designee, or a school resource officer may refer  
178 a minor to a law enforcement officer or agency or a court only if:

179 (a) the minor allegedly committed the same offense on school property on two previous  
180 occasions; and

181 (b) the minor was referred to an evidence-based alternative intervention, or to  
182 prevention or early intervention youth services, as described in Subsection (3) for both of the  
183 two previous offenses.

184 (5) If a minor is alleged to have committed a traffic offense that is an infraction, a  
185 school administrator, the school administrator's designee, or a school resource officer may refer  
186 the minor to a law enforcement officer or agency, a prosecuting attorney, or a court for the  
187 traffic offense.

188 (6) Notwithstanding Subsection (4), a school resource officer may:

189 (a) investigate possible criminal offenses and conduct, including conducting probable  
190 cause searches;

191 (b) consult with school administration about the conduct of a minor enrolled in a  
192 school;

193 (c) transport a minor enrolled in a school to a location if the location is permitted by  
194 law;

195 (d) take temporary custody of a minor in accordance with Section [80-6-201](#); or

196 (e) protect the safety of students and the school community, including the use of  
197 reasonable and necessary physical force when appropriate based on the totality of the  
198 circumstances.

199 (7) (a) If a minor is referred to a court or a law enforcement officer or agency under  
200 Subsection (4), the school or the school district shall appoint a school representative to  
201 continue to engage with the minor and the minor's family through the court process.

202 (b) A school representative appointed under Subsection (7)(a) may not be a school  
203 resource officer.

204 (c) A school district or school shall include the following in the school district's or  
205 school's referral to the court or the law enforcement officer or agency:

206 (i) attendance records for the minor;

207 (ii) a report of evidence-based alternative interventions used by the school before the  
208 referral, including outcomes;

209 (iii) the name and contact information of the school representative assigned to actively  
210 participate in the court process with the minor and the minor's family;

211 (iv) if the minor was referred to prevention or early intervention youth services under

212 Subsection (3)(b), a report from the Division of Juvenile Justice Services that demonstrates the  
213 minor's failure to complete or participate in prevention and early intervention youth services  
214 under Subsection (3)(b); and

215 (v) any other information that the school district or school considers relevant.

216 (d) A minor referred to a court under Subsection (4) may not be ordered to or placed in  
217 secure detention, including for a contempt charge or violation of a valid court order under  
218 Section [78A-6-353](#), when the underlying offense is a status offense or infraction.

219 (e) If a minor is referred to a court under Subsection (4), the court may use, when  
220 available, the resources of the Division of Juvenile Justice Services or the Division of  
221 Substance Abuse and Mental Health to address the minor.

222 (8) If a minor is alleged to have committed an offense on school property that is a class  
223 B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's  
224 designee, or a school resource officer may refer the minor directly to a court or to the  
225 evidence-based alternative interventions in Subsection (3)(a).

226 (9) A school administrator, a school administrator's designee, and a school resource  
227 officer retain the discretion described under this section if the offense is a violation of Section  
228 [63G-31-201](#).

229 Section 3. Section **63G-31-101** is enacted to read:

230 **CHAPTER 31. Distinctions on the Basis of Sex**

231 **Part 1. General Provisions**

232 **63G-31-101. Definitions.**

233 (1) (a) "Changing room" means a space designated for multiple individuals to dress or  
234 undress within the same space.

235 (b) "Changing room" includes:

236 (i) a dressing room, fitting room, locker room, or shower room; and

237 (ii) a restroom when a changing room contains or is attached to the restroom.

238 (2) (a) "Facility" means a publicly owned or controlled building, structure, or other  
239 improvement.

240 (b) "Facility" includes a subset of a publicly owned or controlled building, structure, or  
241 other improvement, including a restroom or locker room.

242 (3) "Government entity" means:



- 243 (a) the state; or
- 244 (b) any county, municipality, special district, special service district, or other political
- 245 subdivision or administrative unit of the state, including:
- 246 (i) a state institution of higher education as defined in Section 53B-2-101; or
- 247 (ii) a local education agency as defined in Section 53G-7-401.
- 248 (4) "Intersex individual" means the same as that term is defined in Section 26B-8-101.
- 249 (5) (a) "Open to the general public" means that a privacy space is:
- 250 (i) freely accessible to a member of the general public;
- 251 (ii) accessible to an individual who has purchased a ticket, paid an entry fee, paid a
- 252 membership fee, or otherwise paid to access the facility containing the relevant privacy space;
- 253 or
- 254 (iii) accessible to a student of an institution of higher education described in Section
- 255 52B-2-101, either freely or as described in Subsection (5)(a)(ii).
- 256 (b) "Open to the general public" does not include a privacy space that is:
- 257 (i) only accessible to employees of a government entity; or
- 258 (ii) any area that is not normally accessible to the public.
- 259 (6) "Privacy space" means a restroom or changing room within a publicly owned or
- 260 controlled facility, where an individual has a reasonable expectation of privacy.
- 261 (7) "Publicly owned or controlled" means that a government entity has at least a partial
- 262 ownership interest in or has control of a facility, program, or event.
- 263 (8) "Restroom" means any space that:
- 264 (a) includes a toilet; and
- 265 (b) is contained in or attached to a changing room.
- 266 (9) "Sex-designated" means that a facility, program, or event is designated specifically
- 267 for males or females and not the opposite sex.
- 268 (10) "Single-occupant facility" means a restroom facility or locker room facility:
- 269 (a) with floor-to-ceiling walls;
- 270 (b) with an entirely encased and locking door; and
- 271 (c) that is designated for single occupancy.
- 272 (11) "Unisex facility" means a facility that:
- 273 (a) is designated for the use of both sexes; or

274 (b) is not sex-designated.

275 Section 4. Section **63G-31-201** is enacted to read:

276 **Part 2. Distinctions on the Basis of Sex**

277 **63G-31-201. Distinctions on the basis of sex.**

278 (1) A government entity may not, on the basis of sex, exclude an individual from  
279 participation in, deny an individual from the benefits of, or subject an individual to a sex-based  
280 distinction in or under any government or otherwise publicly owned or controlled facility,  
281 program, or event, unless the distinction is substantially related to an important government  
282 objective.

283 (2) Each government entity shall ensure the preservation of distinctions on the basis of  
284 sex that protect individual privacy and competitive opportunity, as described in this chapter.

285 (3) (a) To preserve the individual privacy and competitive opportunity of females, an  
286 individual is not entitled to and may not access, use, or benefit from a government or otherwise  
287 publicly funded facility, program, or event if:

288 (i) the facility, program, or event is designated for females; and

289 (ii) the individual is not female.

290 (b) To preserve the individual privacy and competitive opportunity of males, an  
291 individual is not entitled to and may not access, use, or benefit from a government or otherwise  
292 publicly funded facility, program, or event if:

293 (i) the facility, program, or event is designated for males; and

294 (ii) the individual is not male.

295 Section 5. Section **63G-31-202** is enacted to read:

296 **63G-31-202. Sex-based distinctions to protect individual privacy.**

297 A distinction on the basis of sex that provides separate accommodations for the sexes is  
298 substantially related to the important government objective of protecting individual privacy in  
299 the following contexts:

300 (1) a privacy space; and

301 (2) a correctional facility as defined in Section [77-16b-102](#).

302 Section 6. Section **63G-31-203** is enacted to read:

303 **63G-31-203. Sex-based distinctions to protect athletic health and competitive**  
304 **opportunity.**

305 A distinction on the basis of sex to provide separate accommodations for the sexes is  
306 substantially related to the important government objective of protecting health and  
307 competitive opportunity in the availability or quality of an athletic venue, event, or program  
308 within the public education system.

309 Section 7. Section **63G-31-204** is enacted to read:

310 **63G-31-204. Prohibited sex-based distinctions.**

311 The following actions within the public education system constitute a violation of  
312 Section [63G-31-201](#):

313 (1) providing a sex-designated facility, program, or event of a higher quality to one sex  
314 and of a lesser quality to the opposite sex rather than ensuring equivalent quality or rotational  
315 sharing, including the use of athletic facilities or venues;

316 (2) providing males or females preferred or more advantageous scheduling of facilities,  
317 programs, or events in comparison to the opposite sex rather than ensuring equivalent  
318 scheduling practices or rotational sharing, including the scheduling of athletic events or  
319 practices;

320 (3) providing males or females with more sex-designated opportunities than the  
321 opposite sex in excess of a 10% disparity;

322 (4) requiring males or females to participate or compete against the opposite sex in any  
323 sex-designated facility, program, or event; or

324 (5) requiring or knowingly allowing males or females to use a sex-designated facility in  
325 the presence of the opposite sex.

326 Section 8. Section **63G-31-301** is enacted to read:

327 **Part 3. Sex-based Distinctions in Privacy Spaces**

328 **63G-31-301. Sex-designated privacy spaces in public schools.**

329 (1) To preserve the individual privacy of male and female students in the public  
330 education system, a student may only access an operational sex-designated privacy space  
331 within a public school that is designated for student use if the student's sex corresponds with  
332 the sex designation of the privacy space.

333 (2) For a student who makes a request to use a privacy space other than the  
334 corresponding sex-designated privacy space described in Subsection (1) because of the  
335 student's gender identity, as defined in Section [34A-5-102](#), or reasonable fear of bullying, the

336 local education agency, as defined in Section 53E-1-102, shall coordinate with the student's  
337 parent or legal guardian to develop a privacy plan that provides the student with:

338 (a) (i) reasonable access to a unisex or single-occupant facility; or

339 (ii) reasonable access to a faculty or staff restroom; or

340 (b) if the access described in Subsection (2)(a) is unavailable, reasonable access to  
341 private use of an otherwise sex-designated privacy space through staggered scheduling or  
342 another policy provision that provides for temporary private access.

343 (3) A student in a privacy space has a reasonable expectation of privacy, satisfying the  
344 privacy element of the offense of voyeurism in Section 76-9-702.7.

345 (4) An individual may use the following evidence as a defense to an allegation that the  
346 student is not eligible to access and use a sex-designated privacy space under Subsection (1):

347 (a) the student's unamended birth certificate that corresponds with the sex designation  
348 of privacy space, which may be supported with a review of any amendment history obtained  
349 under Section 26B-8-125; or

350 (b) documentation of a medical treatment or procedure that is consistent only with the  
351 sex designation of the privacy space.

352 (5) Subsection (1) does not apply to:

353 (a) a unisex or single-occupant facility; or

354 (b) an intersex individual.

355 Section 9. Section **63G-31-302** is enacted to read:

356 **63G-31-302. Sex-designated changing rooms in publicly owned facilities open to**  
357 **the general public.**

358 (1) (a) Except as provided in Subsection (1)(b), to preserve the individual privacy of  
359 males and females, an individual may only access an operational sex-designated changing room  
360 in a government entity's facility that is open to the general public if:

361 (i) the individual's sex corresponds with the sex designation of the changing room; or

362 (ii) the individual has:

363 (A) legally amended the individual's birth certificate to correspond with the sex  
364 designation of the changing room, which may be supported with a review of any amendment  
365 history obtained under Section 26B-8-125; and

366 (B) undergone a primary sex characteristic surgical procedure as defined in Section

367 58-67-102 to correspond with the sex designation of the changing room.

368 (b) Subsection (1)(a) does not apply to:

369 (i) a minor child who requires assistance to access or use the changing room that  
370 corresponds with the sex of the minor's parent, guardian, or relative;

371 (ii) a dependent minor, as defined in Section 76-5-110, or a dependent adult, as defined  
372 in Section 76-5-111 who requires assistance to access or use the changing room that  
373 corresponds with the sex of a caretaker;

374 (iii) an individual providing public safety services, including law enforcement,  
375 emergency medical services as defined in Section 26B-4-101, and fire protection;

376 (iv) an employee of a health care facility, as defined in Section 26B-2-201, to provide  
377 health care services to a patient of the health care facility; or

378 (v) an individual whose employment duties include the maintenance or cleaning of the  
379 changing room.

380 (2) An individual in a changing room has a reasonable expectation of privacy,  
381 satisfying the privacy element of the offense of voyeurism in Section 76-9-702.7.

382 (3) An individual who knowingly enters a changing room in violation of Subsection (1)  
383 commits the offense of criminal trespass under Section 76-6-206 if the individual enters or  
384 remains in the changing room:

385 (a) under circumstances which a reasonable person would expect to likely cause affront  
386 or alarm to, on, or in the presence of another individual; or

387 (b) for any purpose other than the intended use of the changing room.

388 (4) The surgical provision described in Subsection (1)(a)(ii) does not shield an  
389 individual from the offense of lewdness related to genitalia under Subsection 76-9-202(3) or  
390 76-9-202.5(4).

391 (5) An individual may use the following evidence as a defense against an allegation  
392 that the individual is not eligible to access and use a sex-designated changing room under  
393 Subsection (1):

394 (a) for an individual whose birth sex corresponds with the sex designation of the  
395 changing room:

396 (i) an individual's unamended birth certificate that corresponds with the sex  
397 designation of the changing room, which may be supported with a review of any amendment

398 history obtained under Section 26B-8-125; or

399 (ii) documentation of a medical treatment or procedure that is consistent only with the  
400 sex designation of the changing room; or

401 (b) for an individual whose birth sex does not correspond with the sex designation of  
402 the changing room:

403 (i) the individual's amended birth certificate, which may be supported with a review of  
404 any amendment history obtained under Section 26B-8-125; and

405 (ii) documentation that demonstrates that the individual has undergone a primary sex  
406 characteristic surgical procedure as defined in Section 58-67-102.

407 (6) Subsection (1) does not apply to:

408 (a) a unisex or single-occupant facility;

409 (b) a changing room that is not open to the general public; or

410 (c) an intersex individual.

411 Section 10. Section **63G-31-303** is enacted to read:

412 **63G-31-303. Unisex or single-occupant facilities.**

413 The availability of a unisex facility or single-occupant facility satisfies a government  
414 entity's obligations regarding an individual who, because of the individual's gender identity, as  
415 defined in Section 34A-5-102, or reasonable fear of bullying, is uncomfortable using:

416 (1) for a student, a privacy space in accordance with Section 63G-31-301; or

417 (2) a changing room in accordance with Section 63G-31-302.

418 Section 11. Section **63G-31-304** is enacted to read:

419 **63G-31-304. Government entity facility compliance.**

420 (1) Except as provided under Section 53G-8-211, a government entity shall contact law  
421 enforcement if the entity receives a complaint or allegation regarding the following within a  
422 privacy space in a facility that is open to the general public:

423 (a) an offense of lewdness under Section 76-9-702;

424 (b) an offense of lewdness involving a child under Section 76-9-702.5;

425 (c) voyeurism under Section 76-9-702.7;

426 (d) loitering in a privacy space under Section 76-9-702.8; or

427 (e) for a changing room described in Section 63G-31-301, an offense of criminal  
428 trespass under Subsection 63G-31-301(3).

- 429 (2) To preserve the individual privacy of males and females in privacy spaces:  
430 (a) a government entity shall adopt a privacy compliance plan to address compliance  
431 with the government entity's duties under this chapter;  
432 (b) for construction of a new facility, a government entity shall ensure that the new  
433 construction includes a single-occupant facility; and  
434 (c) for existing privacy spaces, a government entity:  
435 (i) shall consider the feasibility of retrofitting or remodeling to include:  
436 (A) floor-to-ceiling walls and doors or similar privacy protections;  
437 (B) curtains; or  
438 (C) other methods of improving individual privacy within the facility that are  
439 comparable to the methods described in Subsections (2)(a)(i) and (ii); and  
440 (ii) may reduce the number of fixtures that state law requires by up to 20% to provide  
441 adequate space for the retrofitting or remodeling described in Subsection (2)(a).  
442 (3) A government entity shall ensure sufficient sex-designated privacy spaces through  
443 compliance with Sections [15A-3-112](#) and [15A-3-304](#) regarding unisex facilities.

444 Section 12. Section **63G-31-401** is enacted to read:

445 **Part 4. Enforcement and Indemnification**

446 **63G-31-401. Government entity noncompliance.**

447 (1) The state auditor shall:

- 448 (a) establish a process to receive and investigate alleged violations of this chapter by a  
449 government entity;  
450 (b) provide notice to the relevant government entity of:  
451 (i) each alleged violation of this chapter by the government entity;  
452 (ii) each violation that the state auditor determines to be substantiated, including an  
453 opportunity to cure the violation not to exceed 30 calendar days; and  
454 (c) if a government entity fails to cure a violation in accordance with Subsection  
455 (1)(b)(ii), report the government entity's failure to:  
456 (i) for a political subdivision as defined in Section [63G-7-102](#), the attorney general for  
457 enforcement under Subsection (2); and  
458 (ii) for a state entity as defined in Section [67-4-2](#), the Legislative Management  
459 Committee.

460 (2) (a) The attorney general shall:

461 (i) enforce this chapter against a political subdivision upon referral by the state auditor  
462 under Subsection (1)(c) by imposing a fine of up to \$10,000 per violation per day; and

463 (ii) deposit fines under Subsection (2)(a) into the General Fund.

464 (b) A political subdivision may seek judicial review of a fine that the attorney general  
465 imposes under this section to determine whether the fine is clearly erroneous.

466 Section 13. Section **63G-31-402** is enacted to read:

467 **63G-31-402. Indemnification.**

468 The attorney general shall defend, indemnify, and hold harmless a government entity  
469 acting under color of state law to enforce this chapter for any claims or damages, including  
470 court costs and attorney fees that:

471 (1) arise as a result of this chapter; and

472 (2) are not covered by the government entity's insurance policies or any coverage  
473 agreement that the State Risk Management Fund issues.

474 Section 14. Section **67-3-1** is amended to read:

475 **67-3-1. Functions and duties.**

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

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

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

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

483 (b) the revenues received or accrued;

484 (c) expenditures paid or accrued;

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

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

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

489 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of  
490 any department of state government or any independent agency or public corporation as the law



491 requires, as the auditor determines is necessary, or upon request of the governor or the  
492 Legislature;

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

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

496 (A) honesty and integrity in fiscal affairs;

497 (B) accuracy and reliability of financial statements;

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

499 (D) compliance with the law.

500 (b) If any state entity receives federal funding, the state auditor shall ensure that the  
501 audit is performed in accordance with federal audit requirements.

502 (c) (i) The costs of the federal compliance portion of the audit may be paid from an  
503 appropriation to the state auditor from the General Fund.

504 (ii) If an appropriation is not provided, or if the federal government does not  
505 specifically provide for payment of audit costs, the costs of the federal compliance portions of  
506 the audit shall be allocated on the basis of the percentage that each state entity's federal funding  
507 bears to the total federal funds received by the state.

508 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit  
509 funds passed through the state to local governments and to reflect any reduction in audit time  
510 obtained through the use of internal auditors working under the direction of the state auditor.

511 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to  
512 financial audits, and as the auditor determines is necessary, conduct performance and special  
513 purpose audits, examinations, and reviews of any entity that receives public funds, including a  
514 determination of any or all of the following:

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

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

517 (iii) whether the entity's operations have been conducted in an efficient, effective, and  
518 cost-efficient manner;

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

521 (v) whether the entity's management, control, and information systems are adequate,

522 effective, and secure.

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

525 (i) has an elected auditor; and

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

528 (5) The state auditor:

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

531 (b) may:

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

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

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

537 (7) The state auditor shall:

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

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

542 (ii) all debtors of the state;

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

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

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

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

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

552 or

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

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

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

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

562 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,  
563 if necessary, to ensure that officials and employees in the county comply with Section  
564 [59-2-303.1](#); and

565 (i) withhold state allocated funds or the disbursement of property taxes from a local  
566 government entity or a limited purpose entity, as those terms are defined in Section [67-1a-15](#) if  
567 the state auditor finds the withholding necessary to ensure that the entity registers and  
568 maintains the entity's registration with the lieutenant governor, in accordance with Section  
569 [67-1a-15](#).

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

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

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

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

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

584 account.

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

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

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

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

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

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

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

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

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

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

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

611 (i) money held by the state; and

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

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

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

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

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

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

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

627 (ii) meet debt service obligations; and

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

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

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

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

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

639 (13) The state auditor shall:

640 (a) establish audit guidelines and procedures for audits of local mental health and  
641 substance abuse authorities and their contract providers, conducted pursuant to Title 17,  
642 Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local  
643 Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental  
644 Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal  
645 Organizations, and Other Local Entities Act; and

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

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

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

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

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

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

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

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

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

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

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

673 (16) The state auditor shall:

674 (a) with the assistance, advice, and recommendations of an advisory committee  
675 appointed by the state auditor from among special district boards of trustees, officers, and  
676 employees and special service district boards, officers, and employees:

- 677 (i) prepare a Uniform Accounting Manual for Special Districts that:
- 678 (A) prescribes a uniform system of accounting and uniform budgeting and reporting  
679 procedures for special districts under Title 17B, Limited Purpose Local Government Entities -  
680 Special Districts, and special service districts under Title 17D, Chapter 1, Special Service  
681 District Act;
- 682 (B) conforms with generally accepted accounting principles; and
- 683 (C) prescribes reasonable exceptions and modifications for smaller districts to the  
684 uniform system of accounting, budgeting, and reporting;
- 685 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to  
686 reflect generally accepted accounting principles;
- 687 (iii) conduct a continuing review and modification of procedures in order to improve  
688 them;
- 689 (iv) prepare and supply each district with suitable budget and reporting forms; and
- 690 (v) (A) prepare instructional materials, conduct training programs, and render other  
691 services considered necessary to assist special districts and special service districts in  
692 implementing the uniform accounting, budgeting, and reporting procedures; and
- 693 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title  
694 63G, Chapter 22, State Training and Certification Requirements; and
- 695 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices  
696 and experiences of specific special districts and special service districts selected by the state  
697 auditor and make the information available to all districts.
- 698 (17) (a) The following records in the custody or control of the state auditor are  
699 protected records under Title 63G, Chapter 2, Government Records Access and Management  
700 Act:
- 701 (i) records that would disclose information relating to allegations of personal  
702 misconduct, gross mismanagement, or illegal activity of a past or present governmental  
703 employee if the information or allegation cannot be corroborated by the state auditor through  
704 other documents or evidence, and the records relating to the allegation are not relied upon by  
705 the state auditor in preparing a final audit report;
- 706 (ii) records and audit workpapers to the extent the workpapers would disclose the  
707 identity of an individual who during the course of an audit, communicated the existence of any

708 waste of public funds, property, or manpower, or a violation or suspected violation of a law,  
709 rule, or regulation adopted under the laws of this state, a political subdivision of the state, or  
710 any recognized entity of the United States, if the information was disclosed on the condition  
711 that the identity of the individual be protected;

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

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

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

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

721 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to  
722 the state auditor to classify a document as public, private, controlled, or protected under Title  
723 63G, Chapter 2, Government Records Access and Management Act.

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

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

734 (iii) The state auditor or the subject of the audit may seek judicial review of a State  
735 Records Committee determination under Subsection (17)(d)(ii), as provided in Section  
736 63G-2-404.

737 (18) If the state auditor conducts an audit of an entity that the state auditor has  
738 previously audited and finds that the entity has not implemented a recommendation made by



739 the state auditor in a previous audit, the state auditor shall notify the Legislative Management  
740 Committee through the Legislative Management Committee's audit subcommittee that the  
741 entity has not implemented that recommendation.

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

744 (20) Except as provided in Subsection (21), the state auditor shall report, or ensure that  
745 another government entity reports, on the financial, operational, and performance metrics for  
746 the state system of higher education and the state system of public education, including metrics  
747 in relation to students, programs, and schools within those systems.

748 (21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits  
749 of:

750 (i) the scholarship granting organization for the Special Needs Opportunity Scholarship  
751 Program, created in Section [53E-7-402](#);

752 (ii) the State Board of Education for the Carson Smith Scholarship Program, created in  
753 Section [53F-4-302](#); and

754 (iii) the scholarship program manager for the Utah Fits All Scholarship Program,  
755 created in Section [53F-6-402](#).

756 (b) Nothing in this subsection limits or impairs the authority of the State Board of  
757 Education to administer the programs described in Subsection (21)(a).

758 (22) The state auditor shall, based on the information posted by the Office of  
759 Legislative Research and General Counsel under Subsection [36-12-12.1\(2\)](#), for each policy,  
760 track and post the following information on the state auditor's website:

761 (a) the information posted under Subsections [36-12-12.1\(2\)](#)(a) through (e);

762 (b) an indication regarding whether the policy is timely adopted, adopted late, or not  
763 adopted;

764 (c) an indication regarding whether the policy complies with the requirements  
765 established by law for the policy; and

766 (d) a link to the policy.

767 (23) (a) A legislator may request that the state auditor conduct an inquiry to determine  
768 whether a government entity, government official, or government employee has complied with  
769 a legal obligation directly imposed, by statute, on the government entity, government official,

770 or government employee.

771 (b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct  
772 the inquiry requested.

773 (c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state  
774 auditor shall post the results of the inquiry on the state auditor's website.

775 (d) The state auditor may limit the inquiry described in this Subsection (23) to a simple  
776 determination, without conducting an audit, regarding whether the obligation was fulfilled.

777 (24) The state auditor shall:

778 (a) ensure compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in  
779 accordance with Section [63G-31-401](#); and

780 (b) report to the Legislative Management Committee, upon request, regarding the state  
781 auditor's actions under this Subsection (24).

782 Section 15. Section **67-5-1** is amended to read:

783 **67-5-1. General duties.**

784 (1) The attorney general shall:

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

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

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

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

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

799 (i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to  
800 judgment, a memorandum of the judgment and of any process issued if satisfied, and if not

801 satisfied, documentation of the return of the sheriff;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

852 (r) investigate and prosecute violations of all applicable state laws relating to fraud in  
853 connection with the state Medicaid program and any other medical assistance program  
854 administered by the state, including violations of Title 26B, Chapter 3, Part 11, Utah False  
855 Claims Act;

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

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

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

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

862 (t) (i) report at least twice per year to the Legislative Management Committee on any

863 pending or anticipated lawsuits, other than eminent domain lawsuits, that might:  
864 (A) cost the state more than \$500,000; or  
865 (B) require the state to take legally binding action that would cost more than \$500,000  
866 to implement; and  
867 (ii) if the meeting is closed, include an estimate of the state's potential financial or  
868 other legal exposure in that report;  
869 (u) (i) submit a written report to the committees described in Subsection (1)(u)(ii) that  
870 summarizes any lawsuit or decision in which a court or the Office of the Attorney General has  
871 determined that a state statute is unconstitutional or unenforceable since the attorney general's  
872 last report under this Subsection (1)(u), including any:  
873 (A) settlements reached;  
874 (B) consent decrees entered;  
875 (C) judgments issued;  
876 (D) preliminary injunctions issued;  
877 (E) temporary restraining orders issued; or  
878 (F) formal or informal policies of the Office of the Attorney General to not enforce a  
879 law; and  
880 (ii) at least 30 days before the Legislature's May and November interim meetings,  
881 submit the report described in Subsection (1)(u)(i) to:  
882 (A) the Legislative Management Committee;  
883 (B) the Judiciary Interim Committee; and  
884 (C) the Law Enforcement and Criminal Justice Interim Committee;  
885 (v) if the attorney general operates the Office of the Attorney General or any portion of  
886 the Office of the Attorney General as an internal service fund agency in accordance with  
887 Section 67-5-4, submit to the rate committee established in Section 67-5-34:  
888 (i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and  
889 (ii) any other information or analysis requested by the rate committee;  
890 (w) before the end of each calendar year, create an annual performance report for the  
891 Office of the Attorney General and post the report on the attorney general's website;  
892 (x) ensure that any training required under this chapter complies with Title 63G,  
893 Chapter 22, State Training and Certification Requirements;

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

897 (i) the constitutionality of a state statute;

898 (ii) the validity of legislation; or

899 (iii) any action of the Legislature; [~~and~~]

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

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

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

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

906 Subcommittee regarding:

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

908 (B) whether the need remains for the ongoing appropriation to fund the special advisor  
909 described in Subsection (1)(z)(i)[-]; and

910 (aa) (i) enforce compliance with Title 63G, Chapter 31, Distinctions on the Basis of  
911 Sex, in accordance with Section [63G-31-401](#); and

912 (ii) report to the Legislative Management Committee, upon request, regarding the  
913 attorney general's enforcement under this Subsection (1)(aa).

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

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

919 (i) a law enforcement agency submits investigation results to the county attorney or  
920 district attorney of the jurisdiction where the incident occurred and the county attorney or  
921 district attorney:

922 (A) declines to file criminal charges; or

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

925 (ii) after consultation with the county attorney or district attorney of the jurisdiction  
926 where the incident occurred, the attorney general reasonably believes action by the attorney  
927 general would not interfere with an ongoing investigation or prosecution by the county attorney  
928 or district attorney of the jurisdiction where the incident occurred.

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

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

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

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

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

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

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

945 Section 16. Section **68-3-12.5** is amended to read:

946 **68-3-12.5. Definitions for Utah Code.**

947 (1) The definitions listed in this section apply to the Utah Code, unless:

948 (a) the definition is inconsistent with the manifest intent of the Legislature or repugnant  
949 to the context of the statute; or

950 (b) a different definition is expressly provided for the respective title, chapter, part,  
951 section, or subsection.

952 (2) "Adjudicative proceeding" means:

953 (a) an action by a board, commission, department, officer, or other administrative unit  
954 of the state that determines the legal rights, duties, privileges, immunities, or other legal  
955 interests of one or more identifiable persons, including an action to grant, deny, revoke,

- 956 suspend, modify, annul, withdraw, or amend an authority, right, or license; and
- 957 (b) judicial review of an action described in Subsection (2)(a).
- 958 (3) "Administrator" includes "executor" when the subject matter justifies the use.
- 959 (4) "Advisory board," "advisory commission," and "advisory council" mean a board,
- 960 commission, committee, or council that:
- 961 (a) is created by, and whose duties are provided by, statute or executive order;
- 962 (b) performs its duties only under the supervision of another person as provided by
- 963 statute; and
- 964 (c) provides advice and makes recommendations to another person that makes policy
- 965 for the benefit of the general public.
- 966 (5) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps,
- 967 Space Force, and Coast Guard.
- 968 (6) "City" includes, depending on population, a metro township as defined in Section
- 969 [10-3c-102](#).
- 970 (7) "County executive" means:
- 971 (a) the county commission, in the county commission or expanded county commission
- 972 form of government established under Title 17, Chapter 52a, Changing Forms of County
- 973 Government;
- 974 (b) the county executive, in the county executive-council optional form of government
- 975 authorized by Section [17-52a-203](#); or
- 976 (c) the county manager, in the council-manager optional form of government
- 977 authorized by Section [17-52a-204](#).
- 978 (8) "County legislative body" means:
- 979 (a) the county commission, in the county commission or expanded county commission
- 980 form of government established under Title 17, Chapter 52a, Changing Forms of County
- 981 Government;
- 982 (b) the county council, in the county executive-council optional form of government
- 983 authorized by Section [17-52a-203](#); and
- 984 (c) the county council, in the council-manager optional form of government authorized
- 985 by Section [17-52a-204](#).
- 986 (9) "Depose" means to make a written statement made under oath or affirmation.



987 (10) (a) "Equal" means, with respect to biological sex, of the same value.

988 (b) "Equal" does not mean, with respect to biological sex:

989 (i) a characteristic of being the same or identical; or

990 (ii) a requirement that biological sexes be ignored or co-mingled in every circumstance.

991 ~~[(10)]~~ (11) "Executor" includes "administrator" when the subject matter justifies the  
992 use.

993 (12) "Father" means a parent of the male sex.

994 (13) "Female" means the characteristic of an individual whose biological reproductive  
995 system is of the general type that functions in a way that could produce ova.

996 ~~[(11)]~~ (14) "Guardian" includes a person who:

997 (a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary  
998 or court appointment; or

999 (b) is appointed by a court to manage the estate of a minor or incapacitated person.

1000 ~~[(12)]~~ (15) "Highway" includes:

1001 (a) a public bridge;

1002 (b) a county way;

1003 (c) a county road;

1004 (d) a common road; and

1005 (e) a state road.

1006 ~~[(13)]~~ (16) "Intellectual disability" means a significant, subaverage general intellectual  
1007 functioning that:

1008 (a) exists concurrently with deficits in adaptive behavior; and

1009 (b) is manifested during the developmental period as defined in the current edition of  
1010 the Diagnostic and Statistical Manual of Mental Disorders, published by the American  
1011 Psychiatric Association.

1012 ~~[(14)]~~ (17) "Intermediate care facility for people with an intellectual disability" means  
1013 an intermediate care facility for the mentally retarded, as defined in Title XIX of the Social  
1014 Security Act.

1015 ~~[(15)]~~ (18) "Land" includes:

1016 (a) land;

1017 (b) a tenement;

- 1018 (c) a hereditament;
- 1019 (d) a water right;
- 1020 (e) a possessory right; and
- 1021 (f) a claim.
- 1022 (19) "Male" means the characteristic of an individual whose biological reproductive
- 1023 system is of the general type that functions to fertilize the ova of a female.
- 1024 (20) "Man" means an adult human male.
- 1025 [~~(16)~~] (21) "Month" means a calendar month, unless otherwise expressed.
- 1026 (22) "Mother" means a parent of the female sex.
- 1027 [~~(17)~~] (23) "Oath" includes "affirmation."
- 1028 [~~(18)~~] (24) "Person" means:
- 1029 (a) an individual;
- 1030 (b) an association;
- 1031 (c) an institution;
- 1032 (d) a corporation;
- 1033 (e) a company;
- 1034 (f) a trust;
- 1035 (g) a limited liability company;
- 1036 (h) a partnership;
- 1037 (i) a political subdivision;
- 1038 (j) a government office, department, division, bureau, or other body of government;
- 1039 and
- 1040 (k) any other organization or entity.
- 1041 [~~(19)~~] (25) "Personal property" includes:
- 1042 (a) money;
- 1043 (b) goods;
- 1044 (c) chattels;
- 1045 (d) effects;
- 1046 (e) evidences of a right in action;
- 1047 (f) a written instrument by which a pecuniary obligation, right, or title to property is
- 1048 created, acknowledged, transferred, increased, defeated, discharged, or diminished; and

1049 (g) a right or interest in an item described in Subsections [~~(19)(a)~~] (25)(a) through (f).

1050 [~~(20)~~] (26) "Personal representative," "executor," and "administrator" include:

1051 (a) an executor;

1052 (b) an administrator;

1053 (c) a successor personal representative;

1054 (d) a special administrator; and

1055 (e) a person who performs substantially the same function as a person described in

1056 Subsections [~~(20)(a)~~] (26)(a) through (d) under the law governing the person's status.

1057 [~~(21)~~] (27) "Policy board," "policy commission," or "policy council" means a board,  
1058 commission, or council that:

1059 (a) is authorized to make policy for the benefit of the general public;

1060 (b) is created by, and whose duties are provided by, the constitution or statute; and

1061 (c) performs its duties according to its own rules without supervision other than under  
1062 the general control of another person as provided by statute.

1063 [~~(22)~~] (28) "Population" is shown by the most recent state or national census, unless  
1064 expressly provided otherwise.

1065 [~~(23)~~] (29) "Process" means a writ or summons issued in the course of a judicial  
1066 proceeding.

1067 [~~(24)~~] (30) "Property" includes both real and personal property.

1068 [~~(25)~~] (31) "Real estate" or "real property" includes:

1069 (a) land;

1070 (b) a tenement;

1071 (c) a hereditament;

1072 (d) a water right;

1073 (e) a possessory right; and

1074 (f) a claim.

1075 [~~(26)~~] (32) "Review board," "review commission," and "review council" mean a board,  
1076 commission, committee, or council that:

1077 (a) is authorized to approve policy made for the benefit of the general public by another  
1078 body or person;

1079 (b) is created by, and whose duties are provided by, statute; and

1080 (c) performs its duties according to its own rules without supervision other than under  
1081 the general control of another person as provided by statute.

1082 [~~(27)~~] (33) "Road" includes:

1083 (a) a public bridge;

1084 (b) a county way;

1085 (c) a county road;

1086 (d) a common road; and

1087 (e) a state road.

1088 (34) "Sex" means, in relation to an individual, the individual's biological sex, either  
1089 male or female, at birth, according to distinct reproductive roles as manifested by:

1090 (a) sex and reproductive organ anatomy;

1091 (b) chromosomal makeup; and

1092 (c) endogenous hormone profiles.

1093 [~~(28)~~] (35) "Signature" includes a name, mark, or sign written with the intent to  
1094 authenticate an instrument or writing.

1095 [~~(29)~~] (36) "State," when applied to the different parts of the United States, includes a  
1096 state, district, or territory of the United States.

1097 [~~(30)~~] (37) "Swear" includes "affirm."

1098 [~~(31)~~] (38) "Testify" means to make an oral statement under oath or affirmation.

1099 [~~(32)~~] (39) "Town" includes, depending on population, a metro township as defined in  
1100 Section 10-3c-102.

1101 [~~(33)~~] (40) "Uniformed services" means:

1102 (a) the armed forces;

1103 (b) the commissioned corps of the National Oceanic and Atmospheric Administration;

1104 and

1105 (c) the commissioned corps of the United States Public Health Service.

1106 [~~(34)~~] (41) "United States" includes each state, district, and territory of the United  
1107 States of America.

1108 [~~(35)~~] (42) "Utah Code" means the 1953 recodification of the Utah Code, as amended,  
1109 unless the text expressly references a portion of the 1953 recodification of the Utah Code as it  
1110 existed:

1111 (a) on the day on which the 1953 recodification of the Utah Code was enacted; or

1112 (b) (i) after the day described in Subsection [~~(35)~~(a)] (42)(a); and

1113 (ii) before the most recent amendment to the referenced portion of the 1953

1114 recodification of the Utah Code.

1115 [~~(36)~~] (43) "Vessel," when used with reference to shipping, includes a steamboat, canal  
1116 boat, and every structure adapted to be navigated from place to place.

1117 [~~(37)~~] (44) (a) "Veteran" means an individual who:

1118 (i) has served in the United States Armed Forces for at least 180 days:

1119 (A) on active duty; or

1120 (B) in a reserve component, to include the National Guard; or

1121 (ii) has incurred an actual service-related injury or disability while in the United States  
1122 Armed Forces regardless of whether the individual completed 180 days; and

1123 (iii) was separated or retired under conditions characterized as honorable or general.

1124 (b) This definition is not intended to confer eligibility for benefits.

1125 [~~(38)~~] (45) "Will" includes a codicil.

1126 (46) "Woman" means an adult human female.

1127 [~~(39)~~] (47) "Writ" means an order or precept in writing, issued in the name of:

1128 (a) the state;

1129 (b) a court; or

1130 (c) a judicial officer.

1131 [~~(40)~~] (48) "Writing" includes:

1132 (a) printing;

1133 (b) handwriting; and

1134 (c) information stored in an electronic or other medium if the information is retrievable  
1135 in a perceivable format.

1136 Section 17. Section **76-6-206** is amended to read:

1137 **76-6-206. Criminal trespass.**

1138 (1) (a) As used in this section:

1139 (i) "Enter" means intrusion of the entire body or the entire unmanned aircraft.

1140 (ii) "Graffiti" means the same as that term is defined in Section [76-6-101](#).

1141 (iii) "Remain unlawfully," as that term relates to an unmanned aircraft, means

1142 remaining on or over private property when:

1143 (A) the private property or any portion of the private property is not open to the public;

1144 and

1145 (B) the person operating the unmanned aircraft is not otherwise authorized to fly the

1146 unmanned aircraft over the private property or any portion of the private property.

1147 (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

1148 (2) An actor commits criminal trespass if, under circumstances not amounting to

1149 burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section

1150 76-10-2402 regarding commercial obstruction:

1151 (a) the actor enters or remains unlawfully on or causes an unmanned aircraft to enter

1152 and remain unlawfully over property and:

1153 (i) intends to cause annoyance or injury to any person or damage to any property,

1154 including the use of graffiti;

1155 (ii) intends to commit any crime, other than theft or a felony; or

1156 (iii) is reckless as to whether the actor's or unmanned aircraft's presence will cause fear

1157 for the safety of another;

1158 (b) knowing the actor's or unmanned aircraft's entry or presence is unlawful, the actor

1159 enters or remains on or causes an unmanned aircraft to enter or remain unlawfully over

1160 property to which notice against entering is given by:

1161 (i) personal communication to the actor by the owner or someone with apparent

1162 authority to act for the owner;

1163 (ii) fencing or other enclosure obviously designed to exclude intruders; or

1164 (iii) posting of signs reasonably likely to come to the attention of intruders; [or]

1165 (c) the actor enters a condominium unit in violation of [Subsection] Section

1166 57-8-7(8)[-]; or

1167 (d) the actor enters a sex-designated changing room in violation of Subsection

1168 63G-31-302(3).

1169 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2)(a) [or],

1170 (b), or (d) is a class B misdemeanor.

1171 (b) [Hf] The following is a class A misdemeanor:

1172 (i) if a violation of Subsection (2)(a) or (b) is committed in a dwelling[, the violation is

1173 a class A misdemeanor.]; or

1174 (ii) if a violation of Subsection (2)(d) is committed while also committing the offense

1175 of:

1176 (A) lewdness under Section 76-9-702;

1177 (B) lewdness involving a child under Section 76-9-702.5;

1178 (C) voyeurism under Section 76-9-702.7; or

1179 (D) loitering in a privacy space under Section 76-9-702.8.

1180 (c) A violation of Subsection (2)(c) is an infraction.

1181 (4) It is a defense to prosecution under this section that:

1182 (a) the property was at the time open to the public; and

1183 (b) the defendant complied with all lawful conditions imposed on access to or

1184 remaining on the property.

1185 (5) In addition to an order for restitution under Section 77-38b-205, an actor who  
1186 commits a violation of Subsection (2) may also be liable for:

1187 (a) statutory damages in the amount of three times the value of damages resulting from  
1188 the violation of Subsection (2) or \$500, whichever is greater; and

1189 (b) reasonable attorney fees not to exceed \$250, and court costs.

1190 (6) Civil damages under Subsection (5) may be collected in a separate action by the  
1191 property owner or the owner's assignee.

1192 Section 18. Section 76-9-202 is amended to read:

1193 **76-9-202. Emergency reporting -- Interference -- False report.**

1194 (1) As used in this section:

1195 (a) "Emergency" means a situation in which property or human life is in jeopardy and  
1196 the prompt summoning of aid is essential to the preservation of human life or property.

1197 (b) "Party line" means a subscriber's line or telephone circuit:

1198 (i) that consists of two or more connected main telephone stations; and

1199 (ii) where each telephone station has a distinctive ring or telephone number.

1200 (2) An actor is guilty of emergency reporting abuse if the actor:

1201 (a) intentionally refuses to yield or surrender the use of a party line or a public pay  
1202 telephone to another individual upon being informed that the telephone is needed to report a  
1203 fire or summon police, medical, or other aid in case of emergency, unless the telephone is

1204 likewise being used for an emergency call;

1205 (b) asks for or requests the use of a party line or a public pay telephone on the pretext  
1206 that an emergency exists, knowing that no emergency exists;

1207 (c) reports an emergency or causes an emergency to be reported to any public, private,  
1208 or volunteer entity whose purpose is to respond to fire, police, or medical emergencies, when  
1209 the actor knows the reported emergency does not exist; [~~or~~]

1210 (d) makes a false report, or intentionally aids, abets, or causes a third party to make a  
1211 false report, to an emergency response service, including a law enforcement dispatcher or a 911  
1212 emergency response service, if the false report claims that:

1213 (i) an ongoing emergency exists;

1214 (ii) the emergency described in Subsection (2)(d)(i) currently involves, or involves an  
1215 imminent threat of, serious bodily injury, serious physical injury, or death; and

1216 (iii) the emergency described in Subsection (2)(d)(i) is occurring at a specified  
1217 location[-]; or

1218 (e) makes a false report after having previously made a false report, or intentionally  
1219 aides, abets, or causes a third party to make a false report, to an emergency response service,  
1220 including a law enforcement dispatcher or a 911 emergency response service, alleging a  
1221 violation of Section [63G-31-302](#) regarding a sex-designated changing room.

1222 (3) (a) A violation of Subsection (2)(a) or (b) is a class C misdemeanor.

1223 (b) A violation of Subsection (2)(c) is a class B misdemeanor, except as provided  
1224 under Subsection (3)(c).

1225 (c) A violation of Subsection (2)(c) is a second degree felony if the report is regarding  
1226 a weapon of mass destruction, as defined in Section [76-10-401](#).

1227 (d) A violation of Subsection (2)(d):

1228 (i) except as provided in Subsection (3)(d)(ii), is a third degree felony; or

1229 (ii) is a second degree felony if:

1230 (A) while acting in response to the report, the emergency responder causes physical  
1231 injury to an individual at the location described in Subsection (2)(d)(iii); or

1232 (B) the actor makes the false report or aids, abets, or causes a third party to make the  
1233 false report with intent to ambush, attack, or otherwise harm a responding law enforcement  
1234 officer or emergency responder.



1235 (e) A violation of Subsection (2)(e) is a class B misdemeanor.

1236 (4) (a) In addition to any other penalty authorized by law, a court shall order an actor  
1237 convicted of a violation of this section to reimburse:

1238 (i) any federal, state, or local unit of government, or any private business, organization,  
1239 individual, or entity for all expenses and losses incurred in responding to the violation; and

1240 (ii) an individual described in Subsection (3)(d)(ii) for the costs for the treatment of the  
1241 physical injury and any psychological injury caused by the offense.

1242 (b) The court may order that the defendant pay less than the full amount of the costs  
1243 described in Subsection (4)(a) only if the court states on the record the reasons why the  
1244 reimbursement would be inappropriate.

1245 Section 19. Section **76-9-702** is amended to read:

1246 **76-9-702. Lewdness.**

1247 (1) A person is guilty of lewdness if the person under circumstances not amounting to  
1248 rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual  
1249 abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual relations  
1250 under Section [76-5-412](#), custodial sexual misconduct under Section [76-5-412.2](#), custodial  
1251 sexual relations with youth receiving state services under Section [76-5-413](#), custodial sexual  
1252 misconduct with youth receiving state services under Section [76-5-413.2](#), or an attempt to  
1253 commit any of these offenses, performs any of the following acts in a public place or under  
1254 circumstances which the person should know will likely cause affront or alarm to, on, or in the  
1255 presence of another who is 14 years old or older:

1256 (a) an act of sexual intercourse or sodomy;

1257 (b) exposes his or her genitals, the female breast below the top of the areola, the  
1258 buttocks, the anus, or the pubic area;

1259 (c) masturbates; or

1260 (d) any other act of lewdness.

1261 (2) (a) A person convicted the first or second time of a violation of Subsection (1) is  
1262 guilty of a class B misdemeanor, except under Subsection (2)(b).

1263 (b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony  
1264 if at the time of the violation:

1265 (i) the person is a sex offender as defined in Section [77-27-21.7](#);

1266 (ii) the person has been previously convicted two or more times of violating Subsection  
1267 (1); [~~or~~]

1268 (iii) the person has previously been convicted of a violation of Subsection (1) and has  
1269 also previously been convicted of a violation of Section [76-9-702.5](#)[~~;~~]; or

1270 (iv) the person commits the offense of lewdness while also committing the offense of:

1271 (A) criminal trespass in a sex-designated changing room under Subsection

1272 [76-6-206\(2\)\(d\)](#);

1273 (B) lewdness involving a child under Section [76-9-702.5](#);

1274 (C) voyeurism under Section [76-9-702.7](#); or

1275 (D) loitering in a privacy space under Section [76-9-702.8](#).

1276 (c) (i) For purposes of this Subsection (2) and Subsection [77-41-102\(18\)](#), a plea of  
1277 guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77,  
1278 Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

1279 (ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been  
1280 subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

1281 (3) (a) As used in this Subsection (3):

1282 (i) "Common area of a privacy space" means any area of a privacy space other than:

1283 (A) a toilet stall with a closed door;

1284 (B) immediately in front of a urinal during use; or

1285 (C) a shower stall with a closed door or other closed covering.

1286 (ii) "Privacy space" means the same as that term is defined in Section [76-9-702.8](#).

1287 (b) The common area of a privacy space constitutes a public place or circumstance  
1288 described in Subsection (1) where an act or an attempted act described in Subsection (1)  
1289 constitutes lewdness.

1290 (c) Within the common area of a changing room defined in [63G-31-101](#), exposing,  
1291 displaying, or otherwise uncovering genitalia that does not correspond with the sex designation  
1292 of the changing room constitutes an act or an attempted act described in Subsection (1) that  
1293 constitutes lewdness.

1294 [~~(3)~~] (4) A woman's breast feeding, including breast feeding in any location where the  
1295 woman otherwise may rightfully be, does not under any circumstance constitute a lewd act,  
1296 irrespective of whether or not the breast is covered during or incidental to feeding.

1297 Section 20. Section 76-9-702.5 is amended to read:

1298 **76-9-702.5. Lewdness involving a child.**

1299 (1) As used in this section<sup>[;]</sup>:

1300 (a) "[~~it~~] In the presence of" includes within visual contact through an electronic device.

1301 (b) "Common area of a privacy space" means the same as that term is defined in

1302 Section 76-9-702.

1303 (c) "Privacy space" means the same as that term is defined in Section 76-9-702.8.

1304 (2) A person is guilty of lewdness involving a child if the person under circumstances  
1305 not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a  
1306 child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses,  
1307 intentionally or knowingly:

1308 (a) does any of the following in the presence of a child who is under 14 years of age:

1309 (i) performs an act of sexual intercourse or sodomy;

1310 (ii) exposes his or her genitals, the female breast below the top of the areola, the  
1311 buttocks, the anus, or the pubic area:

1312 (A) in a public place; or

1313 (B) in a private place under circumstances the person should know will likely cause  
1314 affront or alarm or with the intent to arouse or gratify the sexual desire of the actor or the child;

1315 (iii) masturbates; or

1316 (iv) performs any other act of lewdness; or

1317 (b) under circumstances not amounting to sexual exploitation of a child under Section  
1318 76-5b-201 or aggravated sexual exploitation of a child under Section 76-5b-201.1, causes a  
1319 child under the age of 14 years to expose his or her genitals, anus, or breast, if female, to the  
1320 actor, with the intent to arouse or gratify the sexual desire of the actor or the child.

1321 (3) (a) Lewdness involving a child is a class A misdemeanor, except under Subsection  
1322 (3)(b).

1323 (b) Lewdness involving a child is a third degree felony if at the time of the violation:

1324 (i) the person is a sex offender as defined in Section 77-27-21.7; [~~or~~]

1325 (ii) the person has previously been convicted of a violation of this section<sup>[;]</sup>; or

1326 (iii) the person commits the offense of lewdness involving a child while also

1327 committing the offense of:

- 1328 (A) criminal trespass in a sex-designated changing room under Subsection  
1329 76-6-206(2)(d);
- 1330 (B) lewdness under Section 76-9-702;  
1331 (C) voyeurism under Section 76-9-702.7; or  
1332 (D) loitering in a privacy space under Section 76-9-702.8.
- 1333 (4) (a) The common area of a privacy space constitutes a public place or circumstance  
1334 described in Subsection (1) where an act or an attempted act described in Subsection (1)  
1335 constitutes lewdness involving a child.
- 1336 (b) Within the common area of a government entity's changing room defined in  
1337 63G-31-101, exposing, displaying, or otherwise uncovering genitalia that does not correspond  
1338 with the sex designation of the changing room constitutes an act or an attempted act described  
1339 in Subsection (1) that constitutes lewdness involving a child.
- 1340 Section 21. Section **76-9-702.7** is amended to read:
- 1341 **76-9-702.7. Voyeurism offenses -- Penalties.**
- 1342 (1) A person is guilty of voyeurism who intentionally uses any type of technology to  
1343 secretly or surreptitiously record, by video, photograph, or other means, an individual:
- 1344 (a) for the purpose of viewing any portion of the individual's body regarding which the  
1345 individual has a reasonable expectation of privacy, whether or not that portion of the body is  
1346 covered with clothing;
- 1347 (b) without the knowledge or consent of the individual; and
- 1348 (c) under circumstances in which the individual has a reasonable expectation of  
1349 privacy.
- 1350 (2) (a) [~~A~~] Except as provided in Subsection (2)(b), a violation of Subsection (1) is a  
1351 class A misdemeanor[~~, except that~~].
- 1352 (b) The following is a third degree felony:
- 1353 (i) a violation of Subsection (1) committed against a child under 14 years of age [~~is a~~  
1354 third degree felony.]; or
- 1355 (ii) a violation of Subsection (1) committed while also committing the offense of:
- 1356 (A) criminal trespass in a sex-designated changing room under Subsection  
1357 76-6-206(2)(d);
- 1358 (B) lewdness under Section 76-9-702;

1359 (C) lewdness involving a child under Section 76-9-702.5; or

1360 (D) loitering in a privacy space under Section 76-9-702.8.

1361 (3) Distribution or sale of any images, including in print, electronic, magnetic, or  
1362 digital format, obtained under Subsection (1) by transmission, display, or dissemination is a  
1363 third degree felony, except that if the violation of this Subsection (3) includes images of a child  
1364 under 14 years of age, the violation is a second degree felony.

1365 (4) A person is guilty of voyeurism who, under circumstances not amounting to a  
1366 violation of Subsection (1), views or attempts to view an individual, with or without the use of  
1367 any instrumentality:

1368 (a) with the intent of viewing any portion of the individual's body regarding which the  
1369 individual has a reasonable expectation of privacy, whether or not that portion of the body is  
1370 covered with clothing;

1371 (b) without the knowledge or consent of the individual; and

1372 (c) under circumstances in which the individual has a reasonable expectation of  
1373 privacy.

1374 (5) (a) ~~[A]~~ Except as provided in Subsection (5)(b), a violation of Subsection (4) is a  
1375 class B misdemeanor[; ~~except that~~].

1376 (b) The following is a class A misdemeanor:

1377 (i) a violation of Subsection (4) committed against a child under 14 years of age is a  
1378 class A misdemeanor[;]; or

1379 (ii) a violation of Subsection (4) committed while also committing the offense of:

1380 (A) criminal trespass in a sex-designated changing room under Subsection

1381 76-6-206(2)(d);

1382 (B) lewdness under Section 76-9-702;

1383 (C) lewdness involving a child under Section 76-9-702.5; or

1384 (D) loitering in a privacy space.

1385 (6) For purposes of this section, an individual has a reasonable expectation of privacy  
1386 within a public restroom.

1387 Section 22. Section 76-9-702.8 is enacted to read:

1388 **76-9-702.8. Loitering in a privacy space.**

1389 (1) As used in this section:

1390 (a) "Privacy space" means the following in which an individual has a reasonable  
1391 expectation of privacy:

1392 (i) a restroom or any other space that includes a toilet;

1393 (ii) a dressing room, fitting room, locker room, changing facility, or any other space  
1394 designated for multiple individuals to dress or undress within the same space; or

1395 (iii) any room or space that includes a shower.

1396 (2) An actor commits the offense of unlawfully loitering in a privacy space if the actor  
1397 intentionally or knowingly remains unlawfully or loiters in a privacy space.

1398 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class  
1399 B misdemeanor.

1400 (b) A violation of Subsection (4) is a class A misdemeanor if the offense is committed  
1401 while also committing the offense of:

1402 (i) criminal trespass in a sex-designated changing room under Subsection  
1403 76-6-206(2)(d);

1404 (ii) lewdness under Section 76-9-702;

1405 (iii) lewdness involving a child under Section 76-9-702.5; or

1406 (iv) voyeurism under Section 76-9-702.7.

1407 **Section 23. Effective date.**

1408 If approved by two-thirds of all the members elected to each house, this bill takes effect  
1409 upon approval by the governor, or the day following the constitutional time limit of Utah  
1410 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
1411 the date of veto override.