

Senator Daniel W. Thatcher 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 or controlled circumstances;
- ▶ establishes acceptable and prohibited distinctions on the basis of sex;
- ▶ requires local education agencies to establish a privacy plan with parents and students in certain cases to address gender identity and fear of bullying in restroom, shower, or locker room facilities that students use within the public education system;
- ▶ enacts provisions regarding shower or locker room facilities where the general public has an expectation of privacy;



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

48 **Money Appropriated in this Bill:**

49 None

50 **Other Special Clauses:**

51 This bill provides a special effective date.

52 **Utah Code Sections Affected:**

53 AMENDS:

54 **53G-6-1101**, as enacted by Laws of Utah 2022, Chapter 398

55 **53G-8-211**, as last amended by Laws of Utah 2023, Chapter 161

56 **67-3-1**, as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480

- 57 [67-5-1](#), as last amended by Laws of Utah 2023, Chapter 330
- 58 [68-3-12.5](#), as last amended by Laws of Utah 2021, Chapter 93
- 59 [76-6-206](#), as last amended by Laws of Utah 2023, Chapter 111
- 60 [76-9-202](#), as last amended by Laws of Utah 2022, Chapter 161
- 61 [76-9-702](#), as last amended by Laws of Utah 2023, Chapter 123
- 62 [76-9-702.5](#), as last amended by Laws of Utah 2022, Chapter 185
- 63 [76-9-702.7](#), as last amended by Laws of Utah 2023, Chapter 411

64 ENACTS:

- 65 [63G-31-101](#), Utah Code Annotated 1953
- 66 [63G-31-102](#), Utah Code Annotated 1953
- 67 [63G-31-201](#), Utah Code Annotated 1953
- 68 [63G-31-202](#), 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 As used in this chapter:

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

236 (b) "Changing room" includes:

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

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

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

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

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

274 (a) is designated for the use of both sexes; or

275 (b) is not sex-designated.

276 Section 4. Section **63G-31-102** is enacted to read:

277 **63G-31-102. Severability.**

278 (1) If any provision of this chapter or the application of any provision of this part to
279 any person or circumstance is held invalid by a final decision of a court of competent
280 jurisdiction, the remainder of this chapter shall be given effect without the invalidated
281 provision or application.

282 (2) The provisions of this chapter are severable.

283 Section 5. Section **63G-31-201** is enacted to read:

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

285 **63G-31-201. Distinctions on the basis of sex.**

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

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

293 (3) (a) As used in this Subsection (3), "athletic facility" does not include a privacy
294 space.

295 (b) To preserve the individual privacy and competitive opportunity of females, an
296 individual is not entitled to and may not access, use, or benefit from a government entity's
297 athletic facility, program, or event if:

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

299 (ii) the individual is not female.

300 (c) To preserve the individual privacy and competitive opportunity of males, an
301 individual is not entitled to and may not access, use, or benefit from a government entity's
302 athletic facility, program, or event if:

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

304 (ii) the individual is not male.

305 Section 6. Section **63G-31-202** is enacted to read:

306 **63G-31-202. Prohibited sex-based distinctions.**

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

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

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

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

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

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

322 Section 7. Section **63G-31-301** is enacted to read:

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

324 **63G-31-301. Sex-designated privacy spaces in public schools.**

325 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
326 state board shall make rules to require a local education agency to, for a student who makes a
327 request to use a privacy space other than the sex-designated privacy space that corresponds
328 with the student's sex because of the student's gender identity, as defined in Section [34A-5-102](#),
329 or reasonable fear of bullying, the local education agency, as defined in Section [53E-1-102](#),
330 coordinate with the student's parent or legal guardian to develop a privacy plan that provides
331 the student with:

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

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

334 (b) if the access described in Subsection (2)(a) is unavailable, reasonable access to
335 private use of an otherwise sex-designated privacy space through staggered scheduling or

336 another policy provision that provides for temporary private access.

337 (2) A student in a privacy space has a reasonable expectation of privacy, satisfying the
338 privacy element of the offense of voyeurism in Section [76-9-702.7](#).

339 Section 8. Section **63G-31-302** is enacted to read:

340 **63G-31-302. Privacy spaces in publicly owned facilities open to the general public.**

341 (1) As used in this section, "common area of a privacy space" means any area of a
342 privacy space other than:

343 (a) a toilet stall with a closed door;

344 (b) immediately in front of a urinal during use; or

345 (c) a shower stall with a closed door or other closed covering.

346 (2) To preserve individual privacy, an individual may not expose the individual's
347 genitals, female breast below the top of the areola, buttocks, anus, or pubic area within the
348 common area of an operational privacy space in a government entity's facility that is open to
349 the general public.

350 (3) An individual in a changing room has a reasonable expectation of privacy,
351 satisfying the privacy element of the offense of voyeurism in Section [76-9-702.7](#).

352 (4) An individual who engages in conduct described in Subsection (2) is subject to the
353 offense of:

354 (a) criminal trespass under Section [76-6-206](#);

355 (b) lewdness under Section [76-9-702](#); and

356 (c) lewdness involving a child under Section [76-9-702.5](#).

357 (5) Subsection (2) does not apply to:

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

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

360 (c) an intersex individual.

361 Section 9. Section **63G-31-303** is enacted to read:

362 **63G-31-303. Unisex or single-occupant facilities.**

363 The availability of a unisex facility or single-occupant facility satisfies a government
364 entity's obligations regarding an individual who, because of the individual's gender identity, as
365 defined in Section [34A-5-102](#), or reasonable fear of bullying, is uncomfortable using:

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

367 (2) a privacy space in accordance with Section 63G-31-302.

368 Section 10. Section **63G-31-304** is enacted to read:

369 **63G-31-304. Government entity facility compliance.**

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

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

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

375 (c) voyeurism under Section 76-9-702.7; or

376 (d) loitering in a privacy space under Section 76-9-702.8.

377 (2) To preserve the individual privacy in privacy spaces:

378 (a) a government entity shall adopt a privacy compliance plan to address compliance
379 with the government entity's duties under this chapter;

380 (b) for construction of a new facility, a government entity shall ensure that the new
381 construction includes a single-occupant facility; and

382 (c) for existing privacy spaces, a government entity:

383 (i) shall consider the feasibility of retrofitting or remodeling to include:

384 (A) floor-to-ceiling walls and doors or similar privacy protections;

385 (B) curtains; or

386 (C) other methods of improving individual privacy within the facility that are

387 comparable to the methods described in Subsections (2)(a)(i) and (ii); and

388 (ii) may reduce the number of fixtures that state law requires by up to 20% to provide
389 adequate space for the retrofitting or remodeling described in Subsection (2)(a).

390 Section 11. Section **63G-31-401** is enacted to read:

391 **Part 4. Enforcement and Indemnification**

392 **63G-31-401. Government entity noncompliance.**

393 (1) The state auditor shall:

394 (a) establish a process to receive and investigate alleged violations of this chapter by a
395 government entity;

396 (b) provide notice to the relevant government entity of:

397 (i) each alleged violation of this chapter by the government entity;

398 (ii) each violation that the state auditor determines to be substantiated, including an
399 opportunity to cure the violation not to exceed 30 calendar days; and

400 (c) if a government entity fails to cure a violation in accordance with Subsection
401 (1)(b)(ii), report the government entity's failure to:

402 (i) for a political subdivision as defined in Section 63G-7-102, the attorney general for
403 enforcement under Subsection (2); and

404 (ii) for a state entity as defined in Section 67-4-2, the Legislative Management
405 Committee.

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

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

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

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

412 Section 12. Section **63G-31-402** is enacted to read:

413 **63G-31-402. Indemnification.**

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

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

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

420 Section 13. Section **67-3-1** is amended to read:

421 **67-3-1. Functions and duties.**

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

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

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

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

- 429 (b) the revenues received or accrued;
- 430 (c) expenditures paid or accrued;
- 431 (d) the amount of unexpended or unencumbered balances of the appropriations to the
432 agencies, departments, divisions, commissions, and institutions; and
- 433 (e) the cash balances of the funds in the custody of the state treasurer.
- 434 (3) (a) The state auditor shall:
- 435 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
436 any department of state government or any independent agency or public corporation as the law
437 requires, as the auditor determines is necessary, or upon request of the governor or the
438 Legislature;
- 439 (ii) perform the audits in accordance with generally accepted auditing standards and
440 other auditing procedures as promulgated by recognized authoritative bodies; and
- 441 (iii) as the auditor determines is necessary, conduct the audits to determine:
- 442 (A) honesty and integrity in fiscal affairs;
- 443 (B) accuracy and reliability of financial statements;
- 444 (C) effectiveness and adequacy of financial controls; and
- 445 (D) compliance with the law.
- 446 (b) If any state entity receives federal funding, the state auditor shall ensure that the
447 audit is performed in accordance with federal audit requirements.
- 448 (c) (i) The costs of the federal compliance portion of the audit may be paid from an
449 appropriation to the state auditor from the General Fund.
- 450 (ii) If an appropriation is not provided, or if the federal government does not
451 specifically provide for payment of audit costs, the costs of the federal compliance portions of
452 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
453 bears to the total federal funds received by the state.
- 454 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
455 funds passed through the state to local governments and to reflect any reduction in audit time
456 obtained through the use of internal auditors working under the direction of the state auditor.
- 457 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
458 financial audits, and as the auditor determines is necessary, conduct performance and special
459 purpose audits, examinations, and reviews of any entity that receives public funds, including a

460 determination of any or all of the following:

- 461 (i) the honesty and integrity of all the entity's fiscal affairs;
- 462 (ii) whether the entity's administrators have faithfully complied with legislative intent;
- 463 (iii) whether the entity's operations have been conducted in an efficient, effective, and
- 464 cost-efficient manner;
- 465 (iv) whether the entity's programs have been effective in accomplishing the intended
- 466 objectives; and
- 467 (v) whether the entity's management, control, and information systems are adequate,
- 468 effective, and secure.

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

- 471 (i) has an elected auditor; and
- 472 (ii) has, within the entity's last budget year, had the entity's financial statements or
- 473 performance formally reviewed by another outside auditor.

474 (5) The state auditor:

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

477 (b) may:

- 478 (i) subpoena witnesses and documents, whether electronic or otherwise; and
- 479 (ii) examine into any matter that the auditor considers necessary.

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

483 (7) The state auditor shall:

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

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

488 (ii) all debtors of the state;

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

490 (c) perform the duties of a member of all boards of which the state auditor is a member

491 by the constitution or laws of the state, and any other duties that are prescribed by the
492 constitution and by law;

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

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

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

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

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

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

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

508 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,
509 if necessary, to ensure that officials and employees in the county comply with Section
510 [59-2-303.1](#); and

511 (i) withhold state allocated funds or the disbursement of property taxes from a local
512 government entity or a limited purpose entity, as those terms are defined in Section [67-1a-15](#) if
513 the state auditor finds the withholding necessary to ensure that the entity registers and
514 maintains the entity's registration with the lieutenant governor, in accordance with Section
515 [67-1a-15](#).

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

520 (b) If, after receiving notice under Subsection (8)(a), a state or independent local
521 fee-assessing unit that exclusively assesses fees has not made corrections to comply with state

522 laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the
523 state auditor:

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

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

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

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

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

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

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

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

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

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

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

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

552 (10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state

553 auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

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

557 (i) money held by the state; and

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

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

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

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

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

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

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

573 (ii) meet debt service obligations; and

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

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

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

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

581 and

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

584 purpose.

585 (13) The state auditor shall:

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

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

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

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

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

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

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

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

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

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

- 617 (i) designate how that work shall be audited; and
- 618 (ii) provide additional funding for those audits, if necessary.

619 (16) The state auditor shall:

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

623 (i) prepare a Uniform Accounting Manual for Special Districts that:

624 (A) prescribes a uniform system of accounting and uniform budgeting and reporting
625 procedures for special districts under Title 17B, Limited Purpose Local Government Entities -
626 Special Districts, and special service districts under Title 17D, Chapter 1, Special Service
627 District Act;

628 (B) conforms with generally accepted accounting principles; and

629 (C) prescribes reasonable exceptions and modifications for smaller districts to the
630 uniform system of accounting, budgeting, and reporting;

631 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to
632 reflect generally accepted accounting principles;

633 (iii) conduct a continuing review and modification of procedures in order to improve
634 them;

635 (iv) prepare and supply each district with suitable budget and reporting forms; and

636 (v) (A) prepare instructional materials, conduct training programs, and render other
637 services considered necessary to assist special districts and special service districts in
638 implementing the uniform accounting, budgeting, and reporting procedures; and

639 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title
640 63G, Chapter 22, State Training and Certification Requirements; and

641 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
642 and experiences of specific special districts and special service districts selected by the state
643 auditor and make the information available to all districts.

644 (17) (a) The following records in the custody or control of the state auditor are
645 protected records under Title 63G, Chapter 2, Government Records Access and Management

646 Act:

647 (i) records that would disclose information relating to allegations of personal
648 misconduct, gross mismanagement, or illegal activity of a past or present governmental
649 employee if the information or allegation cannot be corroborated by the state auditor through
650 other documents or evidence, and the records relating to the allegation are not relied upon by
651 the state auditor in preparing a final audit report;

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

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

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

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

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

667 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to
668 the state auditor to classify a document as public, private, controlled, or protected under Title
669 63G, Chapter 2, Government Records Access and Management Act.

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

676 (ii) The state auditor may submit a record dispute to the State Records Committee,

677 created in Section [63G-2-501](#), for a determination of whether the state auditor may, in
678 conjunction with the state auditor's release of an audit report, release to the public the record
679 that is the subject of the record dispute.

680 (iii) The state auditor or the subject of the audit may seek judicial review of a State
681 Records Committee determination under Subsection (17)(d)(ii), as provided in Section
682 [63G-2-404](#).

683 (18) If the state auditor conducts an audit of an entity that the state auditor has
684 previously audited and finds that the entity has not implemented a recommendation made by
685 the state auditor in a previous audit, the state auditor shall notify the Legislative Management
686 Committee through the Legislative Management Committee's audit subcommittee that the
687 entity has not implemented that recommendation.

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

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

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

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

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

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

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

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

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

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

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

712 (d) a link to the policy.

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

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

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

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

723 (24) The state auditor shall:

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

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

728 Section 14. Section **67-5-1** is amended to read:

729 **67-5-1. General duties.**

730 (1) The attorney general shall:

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

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

738 (c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of

739 process as necessary to execute the judgment;

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

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

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

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

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

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

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

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

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

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

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

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

767 (j) when the property of a judgment debtor in any judgment mentioned in Subsection
768 (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance
769 taking precedence of the judgment in favor of the state, redeem the property, under the

770 direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and
771 pay all money necessary for the redemption, upon the order of the state Board of Examiners,
772 out of any money appropriated for these purposes;

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

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

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

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

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

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

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

798 (r) investigate and prosecute violations of all applicable state laws relating to fraud in
799 connection with the state Medicaid program and any other medical assistance program
800 administered by the state, including violations of Title 26B, Chapter 3, Part 11, Utah False

801 Claims Act;

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

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

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

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

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

807 Section 26B-3-101 in a noninstitutional or other setting;

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

809 pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

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

811 (B) require the state to take legally binding action that would cost more than \$500,000

812 to implement; and

813 (ii) if the meeting is closed, include an estimate of the state's potential financial or

814 other legal exposure in that report;

815 (u) (i) submit a written report to the committees described in Subsection (1)(u)(ii) that

816 summarizes any lawsuit or decision in which a court or the Office of the Attorney General has

817 determined that a state statute is unconstitutional or unenforceable since the attorney general's

818 last report under this Subsection (1)(u), including any:

819 (A) settlements reached;

820 (B) consent decrees entered;

821 (C) judgments issued;

822 (D) preliminary injunctions issued;

823 (E) temporary restraining orders issued; or

824 (F) formal or informal policies of the Office of the Attorney General to not enforce a

825 law; and

826 (ii) at least 30 days before the Legislature's May and November interim meetings,

827 submit the report described in Subsection (1)(u)(i) to:

828 (A) the Legislative Management Committee;

829 (B) the Judiciary Interim Committee; and

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

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

832 the Office of the Attorney General as an internal service fund agency in accordance with
833 Section [67-5-4](#), submit to the rate committee established in Section [67-5-34](#):

834 (i) a proposed rate and fee schedule in accordance with Subsection [67-5-34\(4\)](#); and
835 (ii) any other information or analysis requested by the rate committee;

836 (w) before the end of each calendar year, create an annual performance report for the
837 Office of the Attorney General and post the report on the attorney general's website;

838 (x) ensure that any training required under this chapter complies with Title 63G,
839 Chapter 22, State Training and Certification Requirements;

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

843 (i) the constitutionality of a state statute;
844 (ii) the validity of legislation; or
845 (iii) any action of the Legislature; ~~and~~

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

849 (A) establish outreach to the tribes and affected counties and communities; and
850 (B) foster better relations and a cooperative framework; and
851 (ii) annually report to the Executive Offices and Criminal Justice Appropriations
852 Subcommittee regarding:

853 (A) the status of the work of the special advisor described in Subsection (1)(z)(i); and
854 (B) whether the need remains for the ongoing appropriation to fund the special advisor
855 described in Subsection (1)(z)(i)~~[-]~~; and

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

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

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

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

865 (i) a law enforcement agency submits investigation results to the county attorney or
866 district attorney of the jurisdiction where the incident occurred and the county attorney or
867 district attorney:

868 (A) declines to file criminal charges; or

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

871 (ii) after consultation with the county attorney or district attorney of the jurisdiction
872 where the incident occurred, the attorney general reasonably believes action by the attorney
873 general would not interfere with an ongoing investigation or prosecution by the county attorney
874 or district attorney of the jurisdiction where the incident occurred.

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

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

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

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

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

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

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

891 Section 15. Section **68-3-12.5** is amended to read:

892 **68-3-12.5. Definitions for Utah Code.**

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

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

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

898 (2) "Adjudicative proceeding" means:

899 (a) an action by a board, commission, department, officer, or other administrative unit
900 of the state that determines the legal rights, duties, privileges, immunities, or other legal
901 interests of one or more identifiable persons, including an action to grant, deny, revoke,
902 suspend, modify, annul, withdraw, or amend an authority, right, or license; and

903 (b) judicial review of an action described in Subsection (2)(a).

904 (3) "Administrator" includes "executor" when the subject matter justifies the use.

905 (4) "Advisory board," "advisory commission," and "advisory council" mean a board,
906 commission, committee, or council that:

907 (a) is created by, and whose duties are provided by, statute or executive order;

908 (b) performs its duties only under the supervision of another person as provided by
909 statute; and

910 (c) provides advice and makes recommendations to another person that makes policy
911 for the benefit of the general public.

912 (5) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps,
913 Space Force, and Coast Guard.

914 (6) "City" includes, depending on population, a metro township as defined in Section
915 [10-3c-102](#).

916 (7) "County executive" means:

917 (a) the county commission, in the county commission or expanded county commission
918 form of government established under Title 17, Chapter 52a, Changing Forms of County
919 Government;

920 (b) the county executive, in the county executive-council optional form of government
921 authorized by Section [17-52a-203](#); or

922 (c) the county manager, in the council-manager optional form of government
923 authorized by Section [17-52a-204](#).

924 (8) "County legislative body" means:

925 (a) the county commission, in the county commission or expanded county commission
926 form of government established under Title 17, Chapter 52a, Changing Forms of County
927 Government;

928 (b) the county council, in the county executive-council optional form of government
929 authorized by Section 17-52a-203; and

930 (c) the county council, in the council-manager optional form of government authorized
931 by Section 17-52a-204.

932 (9) "Depose" means to make a written statement made under oath or affirmation.

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

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

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

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

937 ~~[(10)]~~ (11) "Executor" includes "administrator" when the subject matter justifies the
938 use.

939 (12) "Father" means a parent who is of the male sex.

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

942 ~~[(11)]~~ (14) "Guardian" includes a person who:

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

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

946 ~~[(12)]~~ (15) "Highway" includes:

947 (a) a public bridge;

948 (b) a county way;

949 (c) a county road;

950 (d) a common road; and

951 (e) a state road.

952 ~~[(13)]~~ (16) "Intellectual disability" means a significant, subaverage general intellectual
953 functioning that:

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

955 (b) is manifested during the developmental period as defined in the current edition of

956 the Diagnostic and Statistical Manual of Mental Disorders, published by the American
957 Psychiatric Association.

958 ~~[(14)]~~ (17) "Intermediate care facility for people with an intellectual disability" means
959 an intermediate care facility for the mentally retarded, as defined in Title XIX of the Social
960 Security Act.

961 ~~[(15)]~~ (18) "Land" includes:

- 962 (a) land;
- 963 (b) a tenement;
- 964 (c) a hereditament;
- 965 (d) a water right;
- 966 (e) a possessory right; and
- 967 (f) a claim.

968 (19) "Male" means the characteristic of an individual whose biological reproductive
969 system is of the general type that functions to fertilize the ova of a female.

970 (20) "Man" means an adult human male.

971 ~~[(16)]~~ (21) "Month" means a calendar month, unless otherwise expressed.

972 (22) "Mother" means a parent who is of the female sex.

973 ~~[(17)]~~ (23) "Oath" includes "affirmation."

974 ~~[(18)]~~ (24) "Person" means:

- 975 (a) an individual;
- 976 (b) an association;
- 977 (c) an institution;
- 978 (d) a corporation;
- 979 (e) a company;
- 980 (f) a trust;
- 981 (g) a limited liability company;
- 982 (h) a partnership;
- 983 (i) a political subdivision;
- 984 (j) a government office, department, division, bureau, or other body of government;
- 985 and
- 986 (k) any other organization or entity.

987 [~~(19)~~] (25) "Personal property" includes:

988 (a) money;

989 (b) goods;

990 (c) chattels;

991 (d) effects;

992 (e) evidences of a right in action;

993 (f) a written instrument by which a pecuniary obligation, right, or title to property is

994 created, acknowledged, transferred, increased, defeated, discharged, or diminished; and

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

996 [~~(20)~~] (26) "Personal representative," "executor," and "administrator" include:

997 (a) an executor;

998 (b) an administrator;

999 (c) a successor personal representative;

1000 (d) a special administrator; and

1001 (e) a person who performs substantially the same function as a person described in

1002 Subsections [~~(20)~~](a) (26)(a) through (d) under the law governing the person's status.

1003 [~~(21)~~] (27) "Policy board," "policy commission," or "policy council" means a board,

1004 commission, or council that:

1005 (a) is authorized to make policy for the benefit of the general public;

1006 (b) is created by, and whose duties are provided by, the constitution or statute; and

1007 (c) performs its duties according to its own rules without supervision other than under

1008 the general control of another person as provided by statute.

1009 [~~(22)~~] (28) "Population" is shown by the most recent state or national census, unless

1010 expressly provided otherwise.

1011 [~~(23)~~] (29) "Process" means a writ or summons issued in the course of a judicial

1012 proceeding.

1013 [~~(24)~~] (30) "Property" includes both real and personal property.

1014 [~~(25)~~] (31) "Real estate" or "real property" includes:

1015 (a) land;

1016 (b) a tenement;

1017 (c) a hereditament;

1018 (d) a water right;

1019 (e) a possessory right; and

1020 (f) a claim.

1021 [~~26~~] (32) "Review board," "review commission," and "review council" mean a board,
1022 commission, committee, or council that:

1023 (a) is authorized to approve policy made for the benefit of the general public by another
1024 body or person;

1025 (b) is created by, and whose duties are provided by, statute; and

1026 (c) performs its duties according to its own rules without supervision other than under
1027 the general control of another person as provided by statute.

1028 [~~27~~] (33) "Road" includes:

1029 (a) a public bridge;

1030 (b) a county way;

1031 (c) a county road;

1032 (d) a common road; and

1033 (e) a state road.

1034 (34) "Sex" means, in relation to an individual, the individual's biological sex, either
1035 male or female, at birth, according to distinct reproductive roles as manifested by:

1036 (a) sex and reproductive organ anatomy;

1037 (b) chromosomal makeup; and

1038 (c) endogenous hormone profiles.

1039 [~~28~~] (35) "Signature" includes a name, mark, or sign written with the intent to
1040 authenticate an instrument or writing.

1041 [~~29~~] (36) "State," when applied to the different parts of the United States, includes a
1042 state, district, or territory of the United States.

1043 [~~30~~] (37) "Swear" includes "affirm."

1044 [~~31~~] (38) "Testify" means to make an oral statement under oath or affirmation.

1045 [~~32~~] (39) "Town" includes, depending on population, a metro township as defined in
1046 Section 10-3c-102.

1047 [~~33~~] (40) "Uniformed services" means:

1048 (a) the armed forces;

1049 (b) the commissioned corps of the National Oceanic and Atmospheric Administration;
1050 and

1051 (c) the commissioned corps of the United States Public Health Service.

1052 [~~34~~] (41) "United States" includes each state, district, and territory of the United
1053 States of America.

1054 [~~35~~] (42) "Utah Code" means the 1953 recodification of the Utah Code, as amended,
1055 unless the text expressly references a portion of the 1953 recodification of the Utah Code as it
1056 existed:

1057 (a) on the day on which the 1953 recodification of the Utah Code was enacted; or

1058 (b) (i) after the day described in Subsection [~~35~~](a) (42)(a); and

1059 (ii) before the most recent amendment to the referenced portion of the 1953
1060 recodification of the Utah Code.

1061 [~~36~~] (43) "Vessel," when used with reference to shipping, includes a steamboat, canal
1062 boat, and every structure adapted to be navigated from place to place.

1063 [~~37~~] (44) (a) "Veteran" means an individual who:

1064 (i) has served in the United States Armed Forces for at least 180 days:

1065 (A) on active duty; or

1066 (B) in a reserve component, to include the National Guard; or

1067 (ii) has incurred an actual service-related injury or disability while in the United States
1068 Armed Forces regardless of whether the individual completed 180 days; and

1069 (iii) was separated or retired under conditions characterized as honorable or general.

1070 (b) This definition is not intended to confer eligibility for benefits.

1071 [~~38~~] (45) "Will" includes a codicil.

1072 (46) "Woman" means an adult human female.

1073 [~~39~~] (47) "Writ" means an order or precept in writing, issued in the name of:

1074 (a) the state;

1075 (b) a court; or

1076 (c) a judicial officer.

1077 [~~40~~] (48) "Writing" includes:

1078 (a) printing;

1079 (b) handwriting; and

1080 (c) information stored in an electronic or other medium if the information is retrievable
1081 in a perceivable format.

1082 Section 16. Section **76-6-206** is amended to read:

1083 **76-6-206. Criminal trespass.**

1084 (1) (a) As used in this section:

1085 (i) "Enter" means intrusion of the entire body or the entire unmanned aircraft.

1086 (ii) "Graffiti" means the same as that term is defined in Section [76-6-101](#).

1087 (iii) "Remain unlawfully," as that term relates to an unmanned aircraft, means

1088 remaining on or over private property when:

1089 (A) the private property or any portion of the private property is not open to the public;

1090 and

1091 (B) the person operating the unmanned aircraft is not otherwise authorized to fly the

1092 unmanned aircraft over the private property or any portion of the private property.

1093 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-201](#) apply to this section.

1094 (2) An actor commits criminal trespass if, under circumstances not amounting to

1095 burglary as defined in Section [76-6-202](#), [76-6-203](#), or [76-6-204](#) or a violation of Section

1096 [76-10-2402](#) regarding commercial obstruction:

1097 (a) the actor enters or remains unlawfully on or causes an unmanned aircraft to enter

1098 and remain unlawfully over property and:

1099 (i) intends to cause annoyance or injury to any person or damage to any property,

1100 including the use of graffiti;

1101 (ii) intends to commit any crime, other than theft or a felony; or

1102 (iii) is reckless as to whether the actor's or unmanned aircraft's presence will cause fear

1103 for the safety of another;

1104 (b) knowing the actor's or unmanned aircraft's entry or presence is unlawful, the actor

1105 enters or remains on or causes an unmanned aircraft to enter or remain unlawfully over

1106 property to which notice against entering is given by:

1107 (i) personal communication to the actor by the owner or someone with apparent

1108 authority to act for the owner;

1109 (ii) fencing or other enclosure obviously designed to exclude intruders; or

1110 (iii) posting of signs reasonably likely to come to the attention of intruders; [or]

1111 (c) the actor enters a condominium unit in violation of Subsection 57-8-7(8).

1112 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2)(a) [or],

1113 (b), or (d) is a class B misdemeanor.

1114 (b) [Hf] The following is a class A misdemeanor:

1115 (i) if a violation of Subsection (2)(a) or (b) is committed in a dwelling[, the violation is

1116 a class A misdemeanor.]; or

1117 (ii) if a violation of Subsection (2)(d) is committed while also committing the offense

1118 of:

1119 (A) lewdness under Section 76-9-702;

1120 (B) lewdness involving a child under Section 76-9-702.5;

1121 (C) voyeurism under Section 76-9-702.7; or

1122 (D) loitering in a privacy space under Section 76-9-702.8.

1123 (c) A violation of Subsection (2)(c) is an infraction.

1124 (4) It is a defense to prosecution under this section that:

1125 (a) the property was at the time open to the public; and

1126 (b) the defendant complied with all lawful conditions imposed on access to or

1127 remaining on the property.

1128 (5) In addition to an order for restitution under Section 77-38b-205, an actor who

1129 commits a violation of Subsection (2) may also be liable for:

1130 (a) statutory damages in the amount of three times the value of damages resulting from

1131 the violation of Subsection (2) or \$500, whichever is greater; and

1132 (b) reasonable attorney fees not to exceed \$250, and court costs.

1133 (6) Civil damages under Subsection (5) may be collected in a separate action by the

1134 property owner or the owner's assignee.

1135 Section 17. Section 76-9-202 is amended to read:

1136 **76-9-202. Emergency reporting -- Interference -- False report.**

1137 (1) As used in this section:

1138 (a) "Emergency" means a situation in which property or human life is in jeopardy and

1139 the prompt summoning of aid is essential to the preservation of human life or property.

1140 (b) "Party line" means a subscriber's line or telephone circuit:

1141 (i) that consists of two or more connected main telephone stations; and

- 1142 (ii) where each telephone station has a distinctive ring or telephone number.
- 1143 (2) An actor is guilty of emergency reporting abuse if the actor:
- 1144 (a) intentionally refuses to yield or surrender the use of a party line or a public pay
1145 telephone to another individual upon being informed that the telephone is needed to report a
1146 fire or summon police, medical, or other aid in case of emergency, unless the telephone is
1147 likewise being used for an emergency call;
- 1148 (b) asks for or requests the use of a party line or a public pay telephone on the pretext
1149 that an emergency exists, knowing that no emergency exists;
- 1150 (c) reports an emergency or causes an emergency to be reported to any public, private,
1151 or volunteer entity whose purpose is to respond to fire, police, or medical emergencies, when
1152 the actor knows the reported emergency does not exist; [~~or~~]
- 1153 (d) makes a false report, or intentionally aids, abets, or causes a third party to make a
1154 false report, to an emergency response service, including a law enforcement dispatcher or a 911
1155 emergency response service, if the false report claims that:
- 1156 (i) an ongoing emergency exists;
- 1157 (ii) the emergency described in Subsection (2)(d)(i) currently involves, or involves an
1158 imminent threat of, serious bodily injury, serious physical injury, or death; and
- 1159 (iii) the emergency described in Subsection (2)(d)(i) is occurring at a specified
1160 location[-]; or
- 1161 (e) makes a false report after having previously made a false report, or intentionally
1162 aides, abets, or causes a third party to make a false report, to an emergency response service,
1163 including a law enforcement dispatcher or a 911 emergency response service, alleging a
1164 violation of Section [63G-31-302](#) regarding a privacy space.
- 1165 (3) (a) A violation of Subsection (2)(a) or (b) is a class C misdemeanor.
- 1166 (b) A violation of Subsection (2)(c) is a class B misdemeanor, except as provided
1167 under Subsection (3)(c).
- 1168 (c) A violation of Subsection (2)(c) is a second degree felony if the report is regarding
1169 a weapon of mass destruction, as defined in Section [76-10-401](#).
- 1170 (d) A violation of Subsection (2)(d):
- 1171 (i) except as provided in Subsection (3)(d)(ii), is a third degree felony; or
- 1172 (ii) is a second degree felony if:

1173 (A) while acting in response to the report, the emergency responder causes physical
1174 injury to an individual at the location described in Subsection (2)(d)(iii); or

1175 (B) the actor makes the false report or aids, abets, or causes a third party to make the
1176 false report with intent to ambush, attack, or otherwise harm a responding law enforcement
1177 officer or emergency responder.

1178 (e) A violation of Subsection (2)(e) is a class B misdemeanor.

1179 (4) (a) In addition to any other penalty authorized by law, a court shall order an actor
1180 convicted of a violation of this section to reimburse:

1181 (i) any federal, state, or local unit of government, or any private business, organization,
1182 individual, or entity for all expenses and losses incurred in responding to the violation; and

1183 (ii) an individual described in Subsection (3)(d)(ii) for the costs for the treatment of the
1184 physical injury and any psychological injury caused by the offense.

1185 (b) The court may order that the defendant pay less than the full amount of the costs
1186 described in Subsection (4)(a) only if the court states on the record the reasons why the
1187 reimbursement would be inappropriate.

1188 Section 18. Section **76-9-702** is amended to read:

1189 **76-9-702. Lewdness.**

1190 (1) A person is guilty of lewdness if the person under circumstances not amounting to
1191 rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual
1192 abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual relations
1193 under Section [76-5-412](#), custodial sexual misconduct under Section [76-5-412.2](#), custodial
1194 sexual relations with youth receiving state services under Section [76-5-413](#), custodial sexual
1195 misconduct with youth receiving state services under Section [76-5-413.2](#), or an attempt to
1196 commit any of these offenses, performs any of the following acts in a public place or under
1197 circumstances which the person should know will likely cause affront or alarm to, on, or in the
1198 presence of another who is 14 years old or older:

1199 (a) an act of sexual intercourse or sodomy;

1200 (b) exposes his or her genitals, the female breast below the top of the areola, the
1201 buttocks, the anus, or the pubic area;

1202 (c) masturbates; or

1203 (d) any other act of lewdness.

1204 (2) (a) A person convicted the first or second time of a violation of Subsection (1) is
1205 guilty of a class B misdemeanor, except under Subsection (2)(b).

1206 (b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony
1207 if at the time of the violation:

1208 (i) the person is a sex offender as defined in Section [77-27-21.7](#);

1209 (ii) the person has been previously convicted two or more times of violating Subsection
1210 (1); ~~or~~

1211 (iii) the person has previously been convicted of a violation of Subsection (1) and has
1212 also previously been convicted of a violation of Section [76-9-702.5](#)~~[-];~~ or

1213 (iv) the person commits the offense of lewdness while also committing the offense of:

1214 (A) criminal trespass in a sex-designated changing room under Subsection
1215 [76-6-206\(2\)\(d\)](#);

1216 (B) lewdness involving a child under Section [76-9-702.5](#);

1217 (C) voyeurism under Section [76-9-702.7](#); or

1218 (D) loitering in a privacy space under Section [76-9-702.8](#).

1219 (c) (i) For purposes of this Subsection (2) and Subsection [77-41-102\(18\)](#), a plea of
1220 guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77,
1221 Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

1222 (ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been
1223 subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

1224 (3) (a) As used in this Subsection (3):

1225 (i) "Common area of a privacy space" means any area of a privacy space other than:

1226 (A) a toilet stall with a closed door;

1227 (B) immediately in front of a urinal during use; or

1228 (C) a shower stall with a closed door or other closed covering.

1229 (ii) "Privacy space" means the same as that term is defined in Section [76-9-702.8](#).

1230 (b) The common area of a privacy space constitutes a public place or circumstance
1231 described in Subsection (1) where an act or an attempted act described in Subsection (1)
1232 constitutes lewdness.

1233 (c) Within the common area of a dressing room, fitting room, locker room, changing
1234 facility, or any other space designated for multiple individuals to dress or undress within the

1235 same space, exposing, displaying, or otherwise uncovering genitalia constitutes an act or an
1236 attempted act described in Subsection (1) that constitutes lewdness.

1237 ~~[(3)]~~ (4) A woman's breast feeding, including breast feeding in any location where the
1238 woman otherwise may rightfully be, does not under any circumstance constitute a lewd act,
1239 irrespective of whether or not the breast is covered during or incidental to feeding.

1240 Section 19. Section **76-9-702.5** is amended to read:

1241 **76-9-702.5. Lewdness involving a child.**

1242 (1) As used in this section~~[,]~~:

1243 (a) "[~~m~~] In the presence of" includes within visual contact through an electronic device.

1244 (b) "Common area of a privacy space" means the same as that term is defined in
1245 Section 76-9-702.

1246 (c) "Privacy space" means the same as that term is defined in Section 76-9-702.8.

1247 (2) A person is guilty of lewdness involving a child if the person under circumstances
1248 not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a
1249 child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses,
1250 intentionally or knowingly:

1251 (a) does any of the following in the presence of a child who is under 14 years of age:

1252 (i) performs an act of sexual intercourse or sodomy;

1253 (ii) exposes his or her genitals, the female breast below the top of the areola, the
1254 buttocks, the anus, or the pubic area:

1255 (A) in a public place; or

1256 (B) in a private place under circumstances the person should know will likely cause
1257 affront or alarm or with the intent to arouse or gratify the sexual desire of the actor or the child;

1258 (iii) masturbates; or

1259 (iv) performs any other act of lewdness; or

1260 (b) under circumstances not amounting to sexual exploitation of a child under Section
1261 76-5b-201 or aggravated sexual exploitation of a child under Section 76-5b-201.1, causes a
1262 child under the age of 14 years to expose his or her genitals, anus, or breast, if female, to the
1263 actor, with the intent to arouse or gratify the sexual desire of the actor or the child.

1264 (3) (a) Lewdness involving a child is a class A misdemeanor, except under Subsection

1265 (3)(b).

1266 (b) Lewdness involving a child is a third degree felony if at the time of the violation:

1267 (i) the person is a sex offender as defined in Section [77-27-21.7](#); ~~[or]~~

1268 (ii) the person has previously been convicted of a violation of this section~~[-]~~; or

1269 (iii) the person commits the offense of lewdness involving a child while also

1270 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 under Section [76-9-702](#);

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

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

1276 (4) (a) The common area of a privacy space constitutes a public place or circumstance

1277 described in Subsection (1) where an act or an attempted act described in Subsection (1)

1278 constitutes lewdness involving a child.

1279 (b) Within the common area of a government entity's dressing room, fitting room,

1280 locker room, changing facility, or any other space designated for multiple individuals to dress

1281 or undress within the same space, exposing, displaying, or otherwise uncovering genitalia

1282 constitutes an act or an attempted act described in Subsection (1) that constitutes lewdness

1283 involving a child.

1284 Section 20. Section [76-9-702.7](#) is amended to read:

1285 **[76-9-702.7. Voyeurism offenses -- Penalties.](#)**

1286 (1) A person is guilty of voyeurism who intentionally uses any type of technology to
1287 secretly or surreptitiously record, by video, photograph, or other means, an individual:

1288 (a) for the purpose of viewing any portion of the individual's body regarding which the
1289 individual has a reasonable expectation of privacy, whether or not that portion of the body is
1290 covered with clothing;

1291 (b) without the knowledge or consent of the individual; and

1292 (c) under circumstances in which the individual has a reasonable expectation of
1293 privacy.

1294 (2) (a) ~~[A]~~ Except as provided in Subsection (2)(b), a violation of Subsection (1) is a
1295 class A misdemeanor~~[-except that]~~.

1296 (b) The following is a third degree felony:

1297 (i) a violation of Subsection (1) committed against a child under 14 years of age [~~is a~~
1298 ~~third degree felony~~]; or

1299 (ii) a violation of Subsection (1) committed while also committing the offense of:

1300 (A) criminal trespass in a sex-designated changing room under Subsection

1301 76-6-206(2)(d);

1302 (B) lewdness under Section 76-9-702;

1303 (C) lewdness involving a child under Section 76-9-702.5; or

1304 (D) loitering in a privacy space under Section 76-9-702.8.

1305 (3) Distribution or sale of any images, including in print, electronic, magnetic, or
1306 digital format, obtained under Subsection (1) by transmission, display, or dissemination is a
1307 third degree felony, except that if the violation of this Subsection (3) includes images of a child
1308 under 14 years of age, the violation is a second degree felony.

1309 (4) A person is guilty of voyeurism who, under circumstances not amounting to a
1310 violation of Subsection (1), views or attempts to view an individual, with or without the use of
1311 any instrumentality:

1312 (a) with the intent of viewing any portion of the individual's body regarding which the
1313 individual has a reasonable expectation of privacy, whether or not that portion of the body is
1314 covered with clothing;

1315 (b) without the knowledge or consent of the individual; and

1316 (c) under circumstances in which the individual has a reasonable expectation of
1317 privacy.

1318 (5) (a) [~~A~~] Except as provided in Subsection (5)(b), a violation of Subsection (4) is a
1319 class B misdemeanor[~~, except that~~].

1320 (b) The following is a class A misdemeanor:

1321 (i) a violation of Subsection (4) committed against a child under 14 years of age is a
1322 class A misdemeanor[:]; or

1323 (ii) a violation of Subsection (4) committed while also committing the offense of:

1324 (A) criminal trespass in a sex-designated changing room under Subsection

1325 76-6-206(2)(d);

1326 (B) lewdness under Section 76-9-702;

1327 (C) lewdness involving a child under Section 76-9-702.5.

1328 (D) loitering in a privacy space; or

1329 (6) For purposes of this section, an individual has a reasonable expectation of privacy
1330 within a public restroom.

1331 Section 21. Section **76-9-702.8** is enacted to read:

1332 **76-9-702.8. Loitering in a privacy space.**

1333 (1) As used in this section, "privacy space" means the following in which an individual
1334 has a reasonable expectation of privacy:

1335 (a) a restroom or any other space that includes a toilet;

1336 (b) a dressing room, fitting room, locker room, changing facility, or any other space
1337 designated for multiple individuals to dress or undress within the same space; or

1338 (c) any room or space that includes a shower.

1339 (2) An actor commits the offense of unlawfully loitering in a privacy space if the actor
1340 intentionally or knowingly remains unlawfully or loiters in a privacy space.

1341 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class
1342 B misdemeanor.

1343 (b) A violation of Subsection (4) is a class A misdemeanor if the actor commits the
1344 offense while also committing the offense of:

1345 (i) criminal trespass in a privacy space under Subsection [76-6-206\(2\)\(d\)](#);

1346 (ii) lewdness under Section [76-9-702](#);

1347 (iii) lewdness involving a child under Section [76-9-702.5](#); or

1348 (iv) voyeurism under Section [76-9-702.7](#); or

1349 Section 22. **Effective date.**

1350 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members
1351 elected to each house, this bill takes effect upon approval by the governor, or the day following
1352 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
1353 signature, or in the case of a veto, the date of veto override.

1354 (2) The actions affecting the following sections take effect on May 1, 2024:

1355 (a) Section [63G-31-401](#);

1356 (b) Section [67-3-1](#); and

1357 (c) Section [67-5-1](#).