

1 **CRIMINAL JUSTICE CHANGES**

2 2024 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Colin W. Jack**

5 Senate Sponsor: Derrin R. Owens

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to the criminal justice system.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ clarifies the roles of county sheriffs and the Department of Corrections regarding
13 the detention of probationers and parolees who have allegedly violated a condition
14 of probation or parole;
- 15 ▶ modifies the penalties for drug offenses to address possession and distribution of
16 fentanyl, methamphetamine, heroin, and cocaine in certain amounts;
- 17 ▶ removes an unsecured bond as a method of payment for a financial condition of
18 pretrial release;
- 19 ▶ clarifies requirements for a magistrate or judge ordering a condition of release;
- 20 ▶ allows a magistrate or judge to consider the seriousness or type of offense in making
21 a decision about pretrial release if the offense for which the individual is arrested
22 for, or charged with, is a violent felony;
- 23 ▶ creates a crime for a violation of a pretrial release agreement;
- 24 ▶ allows a county sheriff to hold an individual for up to 24 hours for a violation of a
25 pretrial release agreement; and
- 26 ▶ makes technical and conforming changes.

27 **Money Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 This bill provides a special effective date.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **17-22-5.5**, as last amended by Laws of Utah 2022, Chapter 115

34 **58-37-8 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 312,

35 329

36 **58-37-8 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 310,

37 312 and 329

38 **58-37f-201**, as last amended by Laws of Utah 2023, Chapters 329, 415

39 **58-37f-704**, as last amended by Laws of Utah 2022, Chapter 116

40 **64-13-29**, as last amended by Laws of Utah 2022, Chapter 115

41 **77-11b-102**, as last amended by Laws of Utah 2023, Chapters 415, 422 and renumbered

42 and amended by Laws of Utah 2023, Chapter 448

43 **77-20-102**, as last amended by Laws of Utah 2023, Chapter 408

44 **77-20-203**, as last amended by Laws of Utah 2023, Chapter 408

45 **77-20-204**, as last amended by Laws of Utah 2023, Chapters 34, 408

46 **77-20-205**, as last amended by Laws of Utah 2023, Chapters 408, 447

47 **77-20-402**, as renumbered and amended by Laws of Utah 2021, Second Special

48 Session, Chapter 4

49 **77-40a-101**, as last amended by Laws of Utah 2023, Chapter 265

50 ENACTS:

51 **17-22-5.6**, Utah Code Annotated 1953

52 **77-20-210**, Utah Code Annotated 1953



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

55 Section 1. Section **17-22-5.5** is amended to read:

56 **17-22-5.5. Sheriff’s classification of jail facilities -- Maximum operating capacity**

57 **of jail facilities -- Transfer or release of prisoners -- Limitation -- Records regarding**

58 **release.**

- 59 (1) (a) Except as provided in Subsection (4), a county sheriff shall determine:
- 60 (i) subject to Subsection (1)(b), the classification of each jail facility or section of a jail
- 61 facility under the sheriff's control;
- 62 (ii) the nature of each program conducted at a jail facility under the sheriff's control;
- 63 and
- 64 (iii) the internal operation of a jail facility under the sheriff's control.
- 65 (b) A classification under Subsection (1)(a)(i) of a jail facility may not violate any
- 66 applicable zoning ordinance or conditional use permit of the county or municipality.
- 67 (2) Except as provided in Subsection (4), each county sheriff shall:
- 68 (a) with the approval of the county legislative body, establish a maximum operating
- 69 capacity for each jail facility under the sheriff's control, based on facility design and staffing;
- 70 and
- 71 (b) upon a jail facility reaching the jail facility's maximum operating capacity:
- 72 (i) transfer prisoners to another appropriate facility:
- 73 (A) under the sheriff's control; or
- 74 (B) available to the sheriff by contract;
- 75 (ii) release prisoners:
- 76 (A) to a supervised release program, according to release criteria established by the
- 77 sheriff; or
- 78 (B) to another alternative incarceration program developed by the sheriff; or
- 79 (iii) admit prisoners in accordance with law and a uniform admissions policy imposed
- 80 equally upon all entities using the county jail.
- 81 (3) (a) The sheriff shall keep records of the release status and the type of release
- 82 program or alternative incarceration program for any prisoner released under Subsection
- 83 (2)(b)(ii).
- 84 (b) The sheriff shall make these records available upon request to the Department of
- 85 Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.
- 86 (4) This section may not be construed to authorize a sheriff to modify provisions of a
- 87 contract with the Department of Corrections to house in a county jail an individual sentenced to
- 88 the Department of Corrections.
- 89 (5) Regardless of whether a jail facility has reached the jail facility's maximum

90 operating capacity under Subsection (2), a sheriff may release an individual from a jail facility
91 in accordance with Section [77-20-203](#) or [77-20-204](#).

92 ~~[(6) (a) Subject to Subsection (6)(c), a jail facility shall detain an individual for up to
93 24 hours from booking if:]~~

94 ~~[(i) the individual is on supervised probation or parole and that information is
95 reasonably available; and]~~

96 ~~[(ii) the individual was arrested for:]~~

97 ~~[(A) a violent felony as defined in Section [76-3-203.5](#); or]~~

98 ~~[(B) a qualifying domestic violence offense as defined in Subsection [77-36-1.1](#)(4) that
99 is not a criminal mischief offense.]~~

100 ~~[(b) The jail facility shall notify the entity supervising the individual's probation or
101 parole that the individual is being detained.]~~

102 ~~[(c) (i) The jail facility shall release the individual:]~~

103 ~~[(A) to the Department of Corrections if the Department of Corrections supervises the
104 individual and requests the individual's release; or]~~

105 ~~[(B) if a court or magistrate orders release.]~~

106 ~~[(ii) Nothing in this Subsection (6) prohibits a jail facility from holding the individual
107 in accordance with Title 77, Chapter 20, Bail, for new criminal conduct.]~~

108 Section 2. Section [17-22-5.6](#) is enacted to read:

109 **[17-22-5.6. Probation supervision -- Violation of probation -- Detention -- Hearing.](#)**

110 (1) As used in this section:

111 (a) "Probationer" means an individual on probation under the supervision of the county
112 sheriff.

113 (b) (i) "Qualifying domestic violence offense" means the same as that term is defined
114 in Subsection [77-36-1.1](#)(4).

115 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
116 described in Section [76-6-106](#).

117 (c) "Violent felony" means the same as that term is defined in Section [76-3-203.5](#).

118 (2) A county sheriff shall ensure that the court is notified of violations of the terms and
119 conditions of a probationer's probation when the county sheriff determines that:

120 (a) incarceration is recommended as a sanction;

121 (b) a graduated and evidence-based response is not an appropriate response to the
122 offender's violation and recommends revocation of probation; or

123 (c) there is probable cause that the conduct that led to a violation of probation is:

124 (i) a violent felony; or

125 (ii) a qualifying domestic violence offense.

126 (3) A county sheriff may take custody of, and detain, a probationer for a maximum of
127 72 hours, excluding weekends and holidays, if there is probable cause to believe that the
128 probationer has committed a violation of probation.

129 (4) A county sheriff may not detain a probationer or parolee for longer than 72 hours
130 without obtaining a warrant issued by the court.

131 (5) If the county sheriff detains a probationer under Subsection (3), the county sheriff
132 shall ensure the proper court is notified.

133 (6) A written order from the county sheriff is sufficient authorization for a peace
134 officer to incarcerate a probationer if the county sheriff has determined that there is probable
135 cause to believe that the probationer has violated the conditions of probation.

136 (7) If a probationer commits a violation outside of the jurisdiction of the county sheriff
137 supervising the probationer, the arresting law enforcement agency is not required to hold or
138 transport the probationer to the county sheriff.

139 (8) This section does not require a county sheriff to release a probationer who is being
140 held for something other than a probation violation, including a warrant issued for new
141 criminal conduct or a new conviction where the individual is sentenced to incarceration.

142 Section 3. Section **58-37-8 (Superseded 07/01/24)** is amended to read:

143 **58-37-8 (Superseded 07/01/24). Prohibited acts -- Penalties.**

144 (1) Prohibited acts A -- Penalties and reporting:

145 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
146 intentionally:

147 (i) produce, manufacture, or dispense, or to possess with intent to produce,
148 manufacture, or dispense, a controlled or counterfeit substance;

149 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
150 arrange to distribute a controlled or counterfeit substance;

151 (iii) possess a controlled or counterfeit substance with intent to distribute; or

152 (iv) engage in a continuing criminal enterprise where:

153 (A) the person participates, directs, or engages in conduct that results in a violation of
154 this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
155 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
156 Clandestine Drug Lab Act, that is a felony; and

157 (B) the violation is a part of a continuing series of two or more violations of this
158 chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
159 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
160 Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or
161 more persons with respect to whom the person occupies a position of organizer, supervisor, or
162 any other position of management.

163 (b) ~~[A person convicted of violating Subsection (1)(a) with respect to]~~ Except as
164 provided in Subsection (1)(c), (d), (e), or (f), a violation of Subsection (1)(a) is:

165 (i) for a substance or a counterfeit of a substance classified in Schedule I or II, a
166 controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III ~~[is guilty of~~
167 ~~a second degree felony, punishable by imprisonment for not more than 15 years, and upon a~~
168 ~~second or subsequent conviction is guilty of]:~~

169 (A) a second degree felony and punishable by imprisonment for not more than 15 years
170 upon a first conviction; or

171 (B) a first degree felony upon a second or subsequent conviction;

172 (ii) for a substance or a counterfeit of a substance classified in Schedule III or IV, or
173 marijuana, or a substance listed in Section 58-37-4.2 ~~[is guilty of a third degree felony, and~~
174 ~~upon a second or subsequent conviction is guilty of]:~~

175 (A) a third degree felony upon a first conviction; or

176 (B) a second degree felony upon a second or subsequent conviction; or

177 (iii) for a substance or a counterfeit of a substance classified in Schedule V ~~[is guilty of~~
178 ~~a class A misdemeanor and upon a second or subsequent conviction is guilty of]:~~

179 (A) a class A misdemeanor upon a first conviction; or

180 (B) a third degree felony upon a second or subsequent conviction.

181 (c) A violation of Subsection (1)(a)(ii) is a first degree felony if the controlled or
182 counterfeit substance is:

183 (i) fentanyl, methamphetamine, heroin, or cocaine in any amount; and
184 (ii) the distribution resulted in a serious injury or death of an individual.

185 (d) A violation of Subsection (1)(a)(iii) is:

- 186 (i) a first degree felony if the controlled or counterfeit substance is:
- 187 (A) fentanyl in an amount of 500 or more pills or 10 grams or more;
- 188 (B) methamphetamine in an amount of 453 grams or more;
- 189 (C) heroin in an amount of 112 grams or more; or
- 190 (D) cocaine in an amount of 453 grams or more; or

191 (ii) except as provided in Subsection (1)(d)(i), a second degree felony if the controlled
192 or counterfeit substance is fentanyl, methamphetamine, heroin, or cocaine in any amount.

193 ~~[(e)]~~ (e) (i) [A] The court may sentence a person who has been convicted of a violation
194 of Subsection (1)(a)(ii) or (iii) [may be sentenced] to imprisonment for an indeterminate term
195 [as provided by law, but if] as described in Title 76, Chapter 3, Punishments.

196 (ii) If the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried,
197 or possessed on the person or in the person's immediate possession during the commission or in
198 furtherance of the offense[;]:

199 (A) the court shall additionally sentence the person convicted for a term of one year to
200 run consecutively and not concurrently; and

201 (B) the court may additionally sentence the person convicted for an indeterminate term
202 not to exceed five years to run consecutively and not concurrently.

203 ~~[(d)]~~ (f) (i) [A person convicted of violating] A violation of Subsection (1)(a)(iv) is
204 [guilty of] a first degree felony punishable by imprisonment for an indeterminate term of not
205 less than:

206 (A) seven years and which may be for life; or

207 (B) 15 years and which may be for life if the trier of fact determined that the defendant
208 knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B)
209 was under 18 years old.

210 (ii) Imposition or execution of the sentence may not be suspended, and the person is
211 not eligible for probation.

212 (iii) Subsection ~~[(1)(d)(i)(B)] (1)(f)(i)(B)~~ does not apply to any defendant who, at the
213 time of the offense, was under 18 years old.

214 ~~[(e)]~~ (g) The Administrative Office of the Courts shall report to the Division of
215 Professional Licensing the name, case number, date of conviction, and if known, the date of
216 birth of each person convicted of violating Subsection (1)(a).

217 (2) Prohibited acts B -- Penalties and reporting:

218 (a) It is unlawful:

219 (i) for a person knowingly and intentionally to possess or use a controlled substance
220 analog or a controlled substance, unless it was obtained under a valid prescription or order,
221 directly from a practitioner while acting in the course of the person's professional practice, or as
222 otherwise authorized by this chapter;

223 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
224 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied
225 by persons unlawfully possessing, using, or distributing controlled substances in any of those
226 locations; or

227 (iii) for a person knowingly and intentionally to possess an altered or forged
228 prescription or written order for a controlled substance.

229 ~~[(b) A person convicted of violating Subsection (2)(a)(i) with respect to:]~~

230 ~~[(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree~~
231 ~~felony; or]~~

232 ~~[(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty~~
233 ~~of a class A misdemeanor on a first or second conviction, and on a third or subsequent~~
234 ~~conviction if each prior offense was committed within seven years before the date of the~~
235 ~~offense upon which the current conviction is based is guilty of a third degree felony.]~~

236 (b) A violation of Subsection (2)(a)(i) is:

237 (i) for all other controlled substances not included in Subsection (2)(b)(ii), (iii), or (iv),
238 including a substance listed in Section 58-37-4.2 or marijuana:

239 (A) a class B misdemeanor upon a first or second conviction;

240 (B) a class A misdemeanor upon a third conviction if each prior offense was
241 committed within seven years before the date of the offense upon which the current conviction
242 is based; or

243 (C) a third degree felony upon a fourth or subsequent conviction if each prior offense
244 was committed within seven years before the date of the offense upon which the current

245 conviction is based;

246 (ii) except as provided in Subsection (2)(b)(iii) and (iv), for a substance classified in

247 Schedule I or II or a controlled substance analog;

248 (A) a class A misdemeanor on a first or second conviction; or

249 (B) a third degree felony on a third or subsequent conviction if each prior offense was

250 committed within seven years before the date of the offense upon which the current conviction

251 is based;

252 (iii) a third degree felony if the substance is:

253 (A) fentanyl in an amount of 19 pills or fewer or in an amount less than one gram;

254 (B) methamphetamine in an amount of 28 grams or more but less than 56 grams;

255 (C) heroin in an amount less than 112 grams; or

256 (D) cocaine in an amount of 28 grams or more but less than 56 grams; or

257 (iv) a second degree felony if the substance is:

258 (A) fentanyl in an amount of 20 to 499 pills or an amount of less than 10 grams but

259 more than one gram;

260 (B) methamphetamine in an amount of 56 grams or more but less than 453 grams;

261 (C) heroin in an amount of 14 grams or more but less than 112 grams;

262 (D) cocaine in an amount of 56 grams or more but less than 453 grams; or

263 (E) marijuana in an amount of 100 pounds or more.

264 ~~[(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a~~

265 ~~conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater~~

266 ~~penalty than provided in this Subsection (2).]~~

267 ~~[(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled~~

268 ~~substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section~~

269 ~~58-37-4.2, or marijuana, is guilty of a class B misdemeanor.]~~

270 ~~[(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior~~

271 ~~offense was committed within seven years before the date of the offense upon which the~~

272 ~~current conviction is based.]~~

273 ~~[(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree~~

274 ~~felony if each prior offense was committed within seven years before the date of the offense~~

275 ~~upon which the current conviction is based.]~~

276 ~~[(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior~~
277 ~~boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a~~
278 ~~public jail or other place of confinement shall be sentenced to a penalty one degree greater than~~
279 ~~provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as~~
280 ~~listed in:]~~

281 ~~[(i) Subsection (2)(b), the person may be sentenced to imprisonment for an~~
282 ~~indeterminate term as provided by law, and:]~~

283 ~~[(A) the court shall additionally sentence the person convicted to a term of one year to~~
284 ~~run consecutively and not concurrently, and]~~

285 ~~[(B) the court may additionally sentence the person convicted for an indeterminate~~
286 ~~term not to exceed five years to run consecutively and not concurrently, and]~~

287 ~~[(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an~~
288 ~~indeterminate term as provided by law, and the court shall additionally sentence the person~~
289 ~~convicted to a term of six months to run consecutively and not concurrently:]~~

290 ~~[(f)] (c) A ~~[person convicted of violating]~~ violation of Subsection (2)(a)(ii) or (iii) is:~~

291 ~~(i) ~~[on a first conviction, guilty of]~~ a class B misdemeanor upon a first conviction;~~

292 ~~(ii) ~~[on a second conviction, guilty of]~~ a class A misdemeanor upon a second~~
293 ~~conviction; and~~

294 ~~(iii) ~~[on a third or subsequent conviction, guilty of]~~ a third degree felony upon a third~~
295 ~~or subsequent conviction.~~

296 ~~(d) If a person is convicted of a violation of this Subsection (2) subsequent to a~~
297 ~~conviction under Subsection (1)(a), a court shall sentence the person to a penalty one degree~~
298 ~~greater than provided in this Subsection (2).~~

299 ~~(e) If a person is convicted of a violation described in Subsection (2)(b)(ii), (iii) or (iv)~~
300 ~~and the violation occurred while inside the exterior boundaries of property occupied by a~~
301 ~~correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement:~~

302 ~~(i) the court shall sentence the person to a penalty one degree greater than provided in~~
303 ~~Subsection (2)(b);~~

304 ~~(ii) the court may sentence the individual to imprisonment for an indeterminate term as~~
305 ~~described in Title 76, Chapter 3, Punishments, except that the court shall additionally sentence~~
306 ~~the person to a term of one year to run consecutively and not concurrently; and~~

307 (iii) the court may additionally sentence the person to an indeterminate term not to
308 exceed five years to run consecutively and not concurrently.

309 ~~[(g)]~~ (f) The Administrative Office of the Courts shall report to the Division of
310 Professional Licensing the name, case number, date of conviction, and if known, the date of
311 birth of each person convicted of violating Subsection (2)(a).

312 (3) Prohibited acts C -- Penalties:

313 (a) It is unlawful for a person knowingly and intentionally:

314 (i) to use in the course of the manufacture or distribution of a controlled substance a
315 license number which is fictitious, revoked, suspended, or issued to another person or, for the
316 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
317 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
318 person;

319 (ii) to acquire or obtain possession of, to procure or attempt to procure the
320 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
321 attempting to acquire or obtain possession of, or to procure the administration of a controlled
322 substance by misrepresentation or failure by the person to disclose receiving a controlled
323 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
324 prescription or written order for a controlled substance, or the use of a false name or address;

325 (iii) to make a false or forged prescription or written order for a controlled substance,
326 or to utter the same, or to alter a prescription or written order issued or written under the terms
327 of this chapter; or

328 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
329 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
330 device of another or any likeness of any of the foregoing upon any drug or container or labeling
331 so as to render a drug a counterfeit controlled substance.

332 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
333 misdemeanor.

334 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
335 degree felony.

336 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

337 (4) Prohibited acts D -- Penalties:

338 (a) Notwithstanding other provisions of this section, a person not authorized under this
339 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
340 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
341 of fact finds the act is committed:

342 (i) in a public or private elementary or secondary school or on the grounds of any of
343 those schools during the hours of 6 a.m. through 10 p.m.;

344 (ii) in a public or private vocational school or postsecondary institution or on the
345 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

346 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
347 facility's hours of operation;

348 (iv) in a public park, amusement park, arcade, or recreation center when the public or
349 amusement park, arcade, or recreation center is open to the public;

350 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

351 (vi) in or on the grounds of a library when the library is open to the public;

352 (vii) within an area that is within 100 feet of any structure, facility, or grounds included
353 in Subsections (4)(a)(i) through (vi);

354 (viii) in the presence of a person younger than 18 years old, regardless of where the act
355 occurs; or

356 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
357 distribution of a substance in violation of this section to an inmate or on the grounds of a
358 correctional facility as defined in Section 76-8-311.3.

359 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
360 and shall be imprisoned for a term of not less than five years if the penalty that would
361 otherwise have been established but for this Subsection (4) would have been a first degree
362 felony.

363 (ii) Imposition or execution of the sentence may not be suspended, and the person is
364 not eligible for probation.

365 (c) If the classification that would otherwise have been established would have been
366 less than a first degree felony but for this Subsection (4), a person convicted under this
367 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
368 offense.

369 (d) (i) If the violation is of Subsection (4)(a)(ix):

370 (A) the person may be sentenced to imprisonment for an indeterminate term as
371 provided by law, and the court shall additionally sentence the person convicted for a term of
372 one year to run consecutively and not concurrently; and

373 (B) the court may additionally sentence the person convicted for an indeterminate term
374 not to exceed five years to run consecutively and not concurrently; and

375 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
376 the mental state required for the commission of an offense, directly or indirectly solicits,
377 requests, commands, coerces, encourages, or intentionally aids another person to commit a
378 violation of Subsection (4)(a)(ix).

379 (e) It is not a defense to a prosecution under this Subsection (4) that:

380 (i) the actor mistakenly believed the individual to be 18 years old or older at the time of
381 the offense or was unaware of the individual's true age; or

382 (ii) the actor mistakenly believed that the location where the act occurred was not as
383 described in Subsection (4)(a) or was unaware that the location where the act occurred was as
384 described in Subsection (4)(a).

385 (5) A violation of this chapter for which no penalty is specified is a class B
386 misdemeanor.

387 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
388 guilty or no contest to a violation or attempted violation of this section or a plea which is held
389 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
390 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
391 abeyance agreement.

392 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
393 conviction that is:

394 (i) from a separate criminal episode than the current charge; and

395 (ii) from a conviction that is separate from any other conviction used to enhance the
396 current charge.

397 (7) A person may be charged and sentenced for a violation of this section,
398 notwithstanding a charge and sentence for a violation of any other section of this chapter.

399 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu

400 of, a civil or administrative penalty or sanction authorized by law.

401 (b) When a violation of this chapter violates a federal law or the law of another state,
402 conviction or acquittal under federal law or the law of another state for the same act is a bar to
403 prosecution in this state.

404 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
405 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
406 substance or substances, is prima facie evidence that the person or persons did so with
407 knowledge of the character of the substance or substances.

408 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
409 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
410 administering controlled substances or from causing the substances to be administered by an
411 assistant or orderly under the veterinarian's direction and supervision.

412 (11) Civil or criminal liability may not be imposed under this section on:

413 (a) a person registered under this chapter who manufactures, distributes, or possesses
414 an imitation controlled substance for use as a placebo or investigational new drug by a
415 registered practitioner in the ordinary course of professional practice or research;

416 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
417 employment; or

418 (c) a healthcare facility, substance use harm reduction services program, or drug
419 addiction treatment facility that temporarily possesses a controlled or counterfeit substance to
420 conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the
421 strength, effectiveness, or purity of the substance for a public health or safety reason.

422 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
423 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
424 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
425 as defined in Section 58-37-2.

426 (b) In a prosecution alleging violation of this section regarding peyote as defined in
427 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
428 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a
429 traditional Indian religion.

430 (c) (i) The defendant shall provide written notice of intent to claim an affirmative

431 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
432 trial.

433 (ii) The notice shall include the specific claims of the affirmative defense.

434 (iii) The court may waive the notice requirement in the interest of justice for good
435 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

436 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
437 a preponderance of the evidence. If the defense is established, it is a complete defense to the
438 charges.

439 (13) (a) It is an affirmative defense that the person produced, possessed, or
440 administered a controlled substance listed in Section 58-37-4.2 if the person was:

441 (i) engaged in medical research; and

442 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

443 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
444 a controlled substance listed in Section 58-37-4.2.

445 (14) It is an affirmative defense that the person possessed, in the person's body, a
446 controlled substance listed in Section 58-37-4.2 if:

447 (a) the person was the subject of medical research conducted by a holder of a valid
448 license to possess controlled substances under Section 58-37-6; and

449 (b) the substance was administered to the person by the medical researcher.

450 (15) The application of any increase in penalty under this section to a violation of
451 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
452 Subsection (15) takes precedence over any conflicting provision of this section.

453 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
454 listed in Subsection (16)(b) that the person or bystander:

455 (i) reasonably believes that the person or another person is experiencing an overdose
456 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
457 controlled substance or other substance;

458 (ii) reports, or assists a person who reports, in good faith the overdose event to a
459 medical provider, an emergency medical service provider as defined in Section 26B-4-101, a
460 law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the
461 person is the subject of a report made under this Subsection (16);

462 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
463 actual location of the overdose event that facilitates responding to the person experiencing the
464 overdose event;

465 (iv) remains at the location of the person experiencing the overdose event until a
466 responding law enforcement officer or emergency medical service provider arrives, or remains
467 at the medical care facility where the person experiencing an overdose event is located until a
468 responding law enforcement officer arrives;

469 (v) cooperates with the responding medical provider, emergency medical service
470 provider, and law enforcement officer, including providing information regarding the person
471 experiencing the overdose event and any substances the person may have injected, inhaled, or
472 otherwise introduced into the person's body; and

473 (vi) is alleged to have committed the offense in the same course of events from which
474 the reported overdose arose.

475 (b) The offenses referred to in Subsection (16)(a) are:

476 (i) the possession or use of less than 16 ounces of marijuana;

477 (ii) the possession or use of a scheduled or listed controlled substance other than
478 marijuana; and

479 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
480 Imitation Controlled Substances Act.

481 (c) As used in this Subsection (16) and in Section [76-3-203.11](#), "good faith" does not
482 include seeking medical assistance under this section during the course of a law enforcement
483 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

484 (17) If any provision of this chapter, or the application of any provision to any person
485 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
486 invalid provision or application.

487 (18) A legislative body of a political subdivision may not enact an ordinance that is
488 less restrictive than any provision of this chapter.

489 (19) If a minor who is under 18 years old is found by a court to have violated this
490 section or Subsection [76-5-102.1\(2\)\(b\)](#) or [76-5-207\(2\)\(b\)](#), the court may order the minor to
491 complete:

492 (a) a screening as defined in Section [41-6a-501](#);

493 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
494 assessment to be appropriate; and

495 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
496 treatment as indicated by an assessment.

497 Section 4. Section 58-37-8 (Effective 07/01/24) is amended to read:

498 **58-37-8 (Effective 07/01/24). Prohibited acts -- Penalties.**

499 (1) Prohibited acts A -- Penalties and reporting:

500 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
501 intentionally:

502 (i) produce, manufacture, or dispense, or to possess with intent to produce,
503 manufacture, or dispense, a controlled or counterfeit substance;

504 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
505 arrange to distribute a controlled or counterfeit substance;

506 (iii) possess a controlled or counterfeit substance with intent to distribute; or

507 (iv) engage in a continuing criminal enterprise where:

508 (A) the person participates, directs, or engages in conduct that results in a violation of
509 this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
510 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
511 Clandestine Drug Lab Act, that is a felony; and

512 (B) the violation is a part of a continuing series of two or more violations of this
513 chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
514 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
515 Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or
516 more persons with respect to whom the person occupies a position of organizer, supervisor, or
517 any other position of management.

518 (b) ~~[A person convicted of violating Subsection (1)(a) with respect to:]~~ Except as
519 provided in Subsection (1)(c), (d), (e), or (f), a violation of Subsection (1)(a) is:

520 (i) for a substance or a counterfeit of a substance classified in Schedule I or II, a
521 controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III [is guilty of
522 a second degree felony, punishable by imprisonment for not more than 15 years, and upon a
523 second or subsequent conviction is guilty of]:

- 524 (A) a first degree felony upon a second or subsequent conviction; or
525 (B) a second degree felony and punishable by imprisonment for not more than 15 years
526 upon a first conviction;
527 (ii) for a substance or a counterfeit of a substance classified in Schedule III or IV, or
528 marijuana, or a substance listed in Section 58-37-4.2 [is guilty of a third degree felony, and
529 upon a second or subsequent conviction is guilty of];
530 (A) a third degree felony upon a first conviction; or
531 (B) a second degree felony upon a second or subsequent conviction; or
532 (iii) for a substance or a counterfeit of a substance classified in Schedule V [is guilty of
533 a class A misdemeanor and upon a second or subsequent conviction is guilty of];
534 (A) a class A misdemeanor upon a first conviction; or
535 (B) a third degree felony upon a second or subsequent conviction.
536 (c) A violation of Subsection (1)(a)(ii) is a first degree felony if the controlled or
537 counterfeit substance is:
538 (i) fentanyl, methamphetamine, heroin, or cocaine in any amount; and
539 (ii) the distribution resulted in a serious injury or death of an individual.
540 (d) A violation of Subsection (1)(a)(iii) is:
541 (i) a first degree felony if the controlled or counterfeit substance is:
542 (A) fentanyl in an amount of 500 or more pills or 10 grams or more;
543 (B) methamphetamine in an amount of 453 grams or more;
544 (C) heroin in an amount of 112 grams or more; or
545 (D) cocaine in an amount of 453 grams or more; or
546 (ii) except as provided in Subsection (1)(d)(i), a second degree felony if the controlled
547 or counterfeit substance is fentanyl, methamphetamine, heroin, or cocaine in any amount.
548 ~~[(c)]~~ (e) (i) [A] The court may sentence a person who has been convicted of a violation
549 of Subsection (1)(a)(ii) or (iii) [may be sentenced] to imprisonment for an indeterminate term
550 [as provided by law, but if] as described in Title 76, Chapter 3, Punishments.
551 (ii) If the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried,
552 or possessed on the person or in the person's immediate possession during the commission or in
553 furtherance of the offense[;];
554 (A) the court shall additionally sentence the person convicted for a term of one year to

555 run consecutively and not concurrently~~;~~and; and

556 (B) the court may additionally sentence the person convicted for an indeterminate term
557 not to exceed five years to run consecutively and not concurrently.

558 ~~[(d)]~~ (f) (i) ~~[A person convicted of violating]~~ A violation of Subsection (1)(a)(iv) is
559 ~~[guilty of]~~ a first degree felony punishable by imprisonment for an indeterminate term of not
560 less than:

561 (A) seven years and which may be for life; or

562 (B) 15 years and which may be for life if the trier of fact determined that the defendant
563 knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B)
564 was under 18 years old.

565 (ii) Imposition or execution of the sentence may not be suspended, and the person is
566 not eligible for probation.

567 (iii) Subsection ~~[(1)(d)(i)(B)]~~ (1)(f)(i)(B) does not apply to any defendant who, at the
568 time of the offense, was under 18 years old.

569 ~~[(e)]~~ (g) The Administrative Office of the Courts shall report to the Division of
570 Professional Licensing the name, case number, date of conviction, and if known, the date of
571 birth of each person convicted of violating Subsection (1)(a).

572 (2) Prohibited acts B -- Penalties and reporting:

573 (a) It is unlawful:

574 (i) for a person knowingly and intentionally to possess or use a controlled substance
575 analog or a controlled substance, unless it was obtained under a valid prescription or order,
576 directly from a practitioner while acting in the course of the person's professional practice, or as
577 otherwise authorized by this chapter;

578 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
579 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied
580 by persons unlawfully possessing, using, or distributing controlled substances in any of those
581 locations; or

582 (iii) for a person knowingly and intentionally to possess an altered or forged
583 prescription or written order for a controlled substance.

584 ~~[(b) A person convicted of violating Subsection (2)(a)(i) with respect to:]~~

585 ~~[(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree~~

586 felony; or]

587 ~~[(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty~~
588 ~~of a class A misdemeanor on a first or second conviction, and on a third or subsequent~~
589 ~~conviction if each prior offense was committed within seven years before the date of the~~
590 ~~offense upon which the current conviction is based is guilty of a third degree felony.]~~

591 ~~[(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a~~
592 ~~conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater~~
593 ~~penalty than provided in this Subsection (2).]~~

594 ~~[(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled~~
595 ~~substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section~~
596 ~~58-37-4.2, or marijuana, is guilty of a class B misdemeanor.]~~

597 ~~[(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior~~
598 ~~offense was committed within seven years before the date of the offense upon which the~~
599 ~~current conviction is based.]~~

600 ~~[(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree~~
601 ~~felony if each prior offense was committed within seven years before the date of the offense~~
602 ~~upon which the current conviction is based.]~~

603 ~~[(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior~~
604 ~~boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a~~
605 ~~public jail or other place of confinement shall be sentenced to a penalty one degree greater than~~
606 ~~provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as~~
607 ~~listed in:]~~

608 ~~[(i) Subsection (2)(b), the person may be sentenced to imprisonment for an~~
609 ~~indeterminate term as provided by law, and:]~~

610 ~~[(A) the court shall additionally sentence the person convicted to a term of one year to~~
611 ~~run consecutively and not concurrently; and]~~

612 ~~[(B) the court may additionally sentence the person convicted for an indeterminate~~
613 ~~term not to exceed five years to run consecutively and not concurrently; and]~~

614 ~~[(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an~~
615 ~~indeterminate term as provided by law, and the court shall additionally sentence the person~~
616 ~~convicted to a term of six months to run consecutively and not concurrently.]~~

- 617 (b) A violation of Subsection (2)(a)(i) is:
618 (i) for all other controlled substances not included in Subsection (2)(b)(ii), (iii), or (iv),
619 including a substance listed in Section 58-37-4.2 or marijuana:
620 (A) a class B misdemeanor upon a first or second conviction;
621 (B) a class A misdemeanor upon a third conviction if each prior offense was
622 committed within seven years before the date of the offense upon which the current conviction
623 is based; or
624 (C) a third degree felony upon a fourth or subsequent conviction if each prior offense
625 was committed within seven years before the date of the offense upon which the current
626 conviction is based;
627 (ii) except as provided in Subsection (2)(b)(iii) and (iv), for a substance classified in
628 Schedule I or II or a controlled substance analog:
629 (A) a class A misdemeanor on a first or second conviction; or
630 (B) a third degree felony on a third or subsequent conviction if each prior offense was
631 committed within seven years before the date of the offense upon which the current conviction
632 is based; or
633 (iii) a third degree felony if the substance is:
634 (A) fentanyl in an amount of 19 pills or fewer or in an amount less than one gram;
635 (B) methamphetamine in an amount of 28 grams or more but less than 56 grams;
636 (C) heroin in an amount less than 112 grams; or
637 (D) cocaine in an amount of 28 grams or more but less than 56 grams; or
638 (iv) a second degree felony if the substance is:
639 (A) fentanyl in an amount of 20 to 499 pills or an amount that is less than 10 grams but
640 more than one gram;
641 (B) methamphetamine in an amount of 56 grams or more but less than 453 grams;
642 (C) heroin in an amount of 14 grams or more but less than 112 grams;
643 (D) cocaine in an amount of 56 grams or more but less than 453 grams; or
644 (E) marijuana in an amount of 100 pounds or more.
645 ~~[(f)]~~ (c) A [person convicted of violating] a violation of Subsection (2)(a)(ii) or (iii) is:
646 (i) [on a first conviction, guilty of] a class B misdemeanor upon a first conviction;
647 (ii) [on a second conviction, guilty of] a class A misdemeanor upon a second

648 conviction; and

649 (iii) ~~[on a third or subsequent conviction, guilty of]~~ a third degree felony upon a third
650 or subsequent conviction.

651 (d) If a person is convicted of a violation of this Subsection (2) subsequent to a
652 conviction under Subsection (1)(a), a court shall sentence the person to a penalty one degree
653 greater than provided in this Subsection (2).

654 (e) If a person is convicted of a violation described in Subsection (2)(b)(ii), (iii), or (iv)
655 and the violation occurred while inside the exterior boundaries of property occupied by a
656 correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement:

657 (i) the court shall sentence the person to a penalty one degree greater than provided in
658 Subsection (2)(b);

659 (ii) the court may sentence the individual to imprisonment for an indeterminate term as
660 described in Title 76, Chapter 3, Punishments, except that the court shall additionally sentence
661 the person to a term of one year to run consecutively and not concurrently; and

662 (iii) the court may additionally sentence the person to an indeterminate term not to
663 exceed five years to run consecutively and not concurrently.

664 ~~[(g)]~~ (f) The Administrative Office of the Courts shall report to the Division of
665 Professional Licensing the name, case number, date of conviction, and if known, the date of
666 birth of each person convicted of violating Subsection (2)(a).

667 (3) Prohibited acts C -- Penalties:

668 (a) It is unlawful for a person knowingly and intentionally:

669 (i) to use in the course of the manufacture or distribution of a controlled substance a
670 license number which is fictitious, revoked, suspended, or issued to another person or, for the
671 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
672 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
673 person;

674 (ii) to acquire or obtain possession of, to procure or attempt to procure the
675 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
676 attempting to acquire or obtain possession of, or to procure the administration of a controlled
677 substance by misrepresentation or failure by the person to disclose receiving a controlled
678 substance from another source, fraud, forgery, deception, subterfuge, alteration of a

679 prescription or written order for a controlled substance, or the use of a false name or address;

680 (iii) to make a false or forged prescription or written order for a controlled substance,
681 or to utter the same, or to alter a prescription or written order issued or written under the terms
682 of this chapter; or

683 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
684 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
685 device of another or any likeness of any of the foregoing upon any drug or container or labeling
686 so as to render a drug a counterfeit controlled substance.

687 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
688 misdemeanor.

689 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
690 degree felony.

691 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

692 (4) Prohibited acts D -- Penalties:

693 (a) Notwithstanding other provisions of this section, a person not authorized under this
694 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
695 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
696 of fact finds the act is committed:

697 (i) in a public or private elementary or secondary school or on the grounds of any of
698 those schools during the hours of 6 a.m. through 10 p.m.;

699 (ii) in a public or private vocational school or postsecondary institution or on the
700 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

701 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
702 facility's hours of operation;

703 (iv) in a public park, amusement park, arcade, or recreation center when the public or
704 amusement park, arcade, or recreation center is open to the public;

705 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

706 (vi) in or on the grounds of a library when the library is open to the public;

707 (vii) within an area that is within 100 feet of any structure, facility, or grounds included
708 in Subsections (4)(a)(i) through (vi);

709 (viii) in the presence of a person younger than 18 years old, regardless of where the act

710 occurs; or

711 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
712 distribution of a substance in violation of this section to an inmate or on the grounds of a
713 correctional facility as defined in Section 76-8-311.3.

714 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
715 and shall be imprisoned for a term of not less than five years if the penalty that would
716 otherwise have been established but for this Subsection (4) would have been a first degree
717 felony.

718 (ii) Imposition or execution of the sentence may not be suspended, and the person is
719 not eligible for probation.

720 (c) If the classification that would otherwise have been established would have been
721 less than a first degree felony but for this Subsection (4), a person convicted under this
722 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
723 offense.

724 (d) (i) If the violation is of Subsection (4)(a)(ix):

725 (A) the person may be sentenced to imprisonment for an indeterminate term as
726 provided by law, and the court shall additionally sentence the person convicted for a term of
727 one year to run consecutively and not concurrently; and

728 (B) the court may additionally sentence the person convicted for an indeterminate term
729 not to exceed five years to run consecutively and not concurrently; and

730 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
731 the mental state required for the commission of an offense, directly or indirectly solicits,
732 requests, commands, coerces, encourages, or intentionally aids another person to commit a
733 violation of Subsection (4)(a)(ix).

734 (e) It is not a defense to a prosecution under this Subsection (4) that:

735 (i) the actor mistakenly believed the individual to be 18 years old or older at the time of
736 the offense or was unaware of the individual's true age; or

737 (ii) the actor mistakenly believed that the location where the act occurred was not as
738 described in Subsection (4)(a) or was unaware that the location where the act occurred was as
739 described in Subsection (4)(a).

740 (5) A violation of this chapter for which no penalty is specified is a class B

741 misdemeanor.

742 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
743 guilty or no contest to a violation or attempted violation of this section or a plea which is held
744 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
745 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
746 abeyance agreement.

747 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
748 conviction that is:

749 (i) from a separate criminal episode than the current charge; and

750 (ii) from a conviction that is separate from any other conviction used to enhance the
751 current charge.

752 (7) A person may be charged and sentenced for a violation of this section,
753 notwithstanding a charge and sentence for a violation of any other section of this chapter.

754 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu
755 of, a civil or administrative penalty or sanction authorized by law.

756 (b) When a violation of this chapter violates a federal law or the law of another state,
757 conviction or acquittal under federal law or the law of another state for the same act is a bar to
758 prosecution in this state.

759 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
760 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
761 substance or substances, is prima facie evidence that the person or persons did so with
762 knowledge of the character of the substance or substances.

763 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
764 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
765 administering controlled substances or from causing the substances to be administered by an
766 assistant or orderly under the veterinarian's direction and supervision.

767 (11) Civil or criminal liability may not be imposed under this section on:

768 (a) a person registered under this chapter who manufactures, distributes, or possesses
769 an imitation controlled substance for use as a placebo or investigational new drug by a
770 registered practitioner in the ordinary course of professional practice or research;

771 (b) a law enforcement officer acting in the course and legitimate scope of the officer's

772 employment;or

773 (c) a healthcare facility, substance use harm reduction services program, or drug
774 addiction treatment facility that temporarily possesses a controlled or counterfeit substance to
775 conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the
776 strength, effectiveness, or purity of the substance for a public health or safety reason.

777 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
778 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
779 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
780 as defined in Section 58-37-2.

781 (b) In a prosecution alleging violation of this section regarding peyote as defined in
782 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
783 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a
784 traditional Indian religion.

785 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
786 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
787 trial.

788 (ii) The notice shall include the specific claims of the affirmative defense.

789 (iii) The court may waive the notice requirement in the interest of justice for good
790 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

791 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
792 a preponderance of the evidence. If the defense is established, it is a complete defense to the
793 charges.

794 (13) (a) It is an affirmative defense that the person produced, possessed, or
795 administered a controlled substance listed in Section 58-37-4.2 if the person was:

796 (i) engaged in medical research; and

797 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

798 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
799 a controlled substance listed in Section 58-37-4.2.

800 (14) It is an affirmative defense that the person possessed, in the person's body, a
801 controlled substance listed in Section 58-37-4.2 if:

802 (a) the person was the subject of medical research conducted by a holder of a valid

803 license to possess controlled substances under Section 58-37-6; and

804 (b) the substance was administered to the person by the medical researcher.

805 (15) The application of any increase in penalty under this section to a violation of
806 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
807 Subsection (15) takes precedence over any conflicting provision of this section.

808 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
809 listed in Subsection (16)(b) that the person or bystander:

810 (i) reasonably believes that the person or another person is experiencing an overdose
811 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
812 controlled substance or other substance;

813 (ii) reports, or assists a person who reports, in good faith the overdose event to a
814 medical provider, an emergency medical service provider as defined in Section 53-2d-101, a
815 law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the
816 person is the subject of a report made under this Subsection (16);

817 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
818 actual location of the overdose event that facilitates responding to the person experiencing the
819 overdose event;

820 (iv) remains at the location of the person experiencing the overdose event until a
821 responding law enforcement officer or emergency medical service provider arrives, or remains
822 at the medical care facility where the person experiencing an overdose event is located until a
823 responding law enforcement officer arrives;

824 (v) cooperates with the responding medical provider, emergency medical service
825 provider, and law enforcement officer, including providing information regarding the person
826 experiencing the overdose event and any substances the person may have injected, inhaled, or
827 otherwise introduced into the person's body; and

828 (vi) is alleged to have committed the offense in the same course of events from which
829 the reported overdose arose.

830 (b) The offenses referred to in Subsection (16)(a) are:

831 (i) the possession or use of less than 16 ounces of marijuana;

832 (ii) the possession or use of a scheduled or listed controlled substance other than
833 marijuana; and

834 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
835 Imitation Controlled Substances Act.

836 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not
837 include seeking medical assistance under this section during the course of a law enforcement
838 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

839 (17) If any provision of this chapter, or the application of any provision to any person
840 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
841 invalid provision or application.

842 (18) A legislative body of a political subdivision may not enact an ordinance that is
843 less restrictive than any provision of this chapter.

844 (19) If a minor who is under 18 years old is found by a court to have violated this
845 section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to
846 complete:

847 (a) a screening as defined in Section 41-6a-501;

848 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
849 assessment to be appropriate; and

850 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
851 treatment as indicated by an assessment.

852 Section 5. Section 58-37f-201 is amended to read:

853 **58-37f-201. Controlled substance database -- Creation -- Purpose.**

854 (1) There is created within the division a controlled substance database.

855 (2) The division shall administer and direct the functioning of the database in
856 accordance with this chapter.

857 (3) The division may, under state procurement laws, contract with another state agency
858 or a private entity to establish, operate, or maintain the database.

859 (4) The division shall, in collaboration with the board, determine whether to operate
860 the database within the division or contract with another entity to operate the database, based
861 on an analysis of costs and benefits.

862 (5) The purpose of the database is to contain:

863 (a) the data described in Section 58-37f-203 regarding prescriptions for dispensed
864 controlled substances;

865 (b) data reported to the division under Section 26B-2-225 regarding poisoning or
866 overdose;

867 (c) data reported to the division under Subsection 41-6a-502(5) or 41-6a-502.5(5)(b)
868 regarding convictions for driving under the influence of a prescribed controlled substance or
869 impaired driving; and

870 (d) data reported to the division under Subsection [~~58-37-8(1)(c) or 58-37-8(2)(g)~~]
871 58-37-8(1)(g) or 58-37-8(2)(f) regarding certain violations of Chapter 37, Utah Controlled
872 Substances Act.

873 (6) The division shall maintain the database in an electronic file or by other means
874 established by the division to facilitate use of the database for identification of:

875 (a) prescribing practices and patterns of prescribing and dispensing controlled
876 substances;

877 (b) practitioners prescribing controlled substances in an unprofessional or unlawful
878 manner;

879 (c) individuals receiving prescriptions for controlled substances from licensed
880 practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet
881 in quantities or with a frequency inconsistent with generally recognized standards of dosage for
882 that controlled substance;

883 (d) individuals presenting forged or otherwise false or altered prescriptions for
884 controlled substances to a pharmacy;

885 (e) individuals admitted to a general acute hospital for poisoning or overdose involving
886 a prescribed controlled substance; and

887 (f) individuals convicted for:

888 (i) driving under the influence of a prescribed controlled substance that renders the
889 individual incapable of safely operating a vehicle;

890 (ii) driving while impaired, in whole or in part, by a prescribed controlled substance; or

891 (iii) certain violations of Chapter 37, Utah Controlled Substances Act.

892 Section 6. Section 58-37f-704 is amended to read:

893 **58-37f-704. Entering certain convictions into the database.**

894 Beginning October 1, 2016, if the division receives a report from a court under
895 Subsection [~~58-37-8(1)(c) or 58-37-8(2)(g)~~], 58-37-8(1)(g) or 58-37-8(2)(f), the division shall

896 daily enter into the database the information supplied in the report.

897 Section 7. Section **64-13-29** is amended to read:

898 **64-13-29. Violation of parole or probation -- Detention -- Hearing.**

899 (1) As used in this section:

900 (a) "72-hour hold" means a directive from the department:

901 (i) prohibiting the release of a parolee or probationer from correctional custody who
902 has entered correctional custody due to a violation of a condition of parole or probation; and

903 (ii) lasting for a maximum of 72 hours, excluding weekends or holidays, from the time
904 the parolee or probationer entered correctional custody.

905 (b) "Correctional custody" means when a parolee or probationer is physically detained
906 in a county jail or a correctional facility operated by the department.

907 (c) "Parolee" means an individual on parole under the supervision of the department.

908 (d) "Probationer" means an individual on probation under the supervision of the
909 department.

910 (e) (i) "Qualifying domestic violence offense" means the same as that term is defined in
911 Subsection [77-36-1.1\(4\)](#).

912 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
913 described in Section [76-6-106](#).

914 (f) "Violent felony" means the same as that term is defined in Section [76-3-203.5](#).

915 ~~[(a)]~~ (2) The department ~~[or local law enforcement agency]~~ shall ensure that the court
916 is notified of violations of the terms and conditions of probation in the case of probationers
917 under the supervision of the department~~[-, the local law enforcement agency,]~~ or the Board of
918 Pardons and Parole in the case of parolees under the department's supervision when:

919 ~~[(i)]~~ (a) ~~[a sanction of]~~ incarceration is recommended as a sanction;

920 ~~[(ii)]~~ (b) the department ~~[or local law enforcement agency]~~ determines that a graduated
921 and evidence-based response is not an appropriate response to the ~~[offender's]~~ violation and
922 recommends revocation of probation or parole; or

923 ~~[(iii)]~~ (c) there is probable cause that the conduct that led to a violation of parole or
924 probation is:

925 ~~[(A)]~~ (i) a violent felony ~~[as defined in Section [76-3-203.5](#)]~~; or

926 ~~[(B)]~~ (ii) a qualifying domestic violence offense ~~[as defined in Subsection [77-36-1.1\(4\)](#)]~~

927 that is not a criminal mischief offense].

928 ~~[(b) In cases where the department desires to detain an offender alleged to have~~
929 ~~violated his parole or probation and where it is unlikely that the Board of Pardons and Parole or~~
930 ~~court will conduct a hearing within a reasonable time to determine if the offender has violated~~
931 ~~his conditions of parole or probation, the department shall hold an administrative hearing~~
932 ~~within a reasonable time, unless the hearing is waived by the parolee or probationer, to~~
933 ~~determine if there is probable cause to believe that a violation has occurred.]~~

934 ~~[(c) If there is a conviction for a crime based on the same charges as the probation or~~
935 ~~parole violation, or a finding by a federal or state court that there is probable cause to believe~~
936 ~~that an offender has committed a crime based on the same charges as the probation or parole~~
937 ~~violation, the department need not hold an administrative hearing.]~~

938 ~~[(2) The appropriate officer or officers of the department shall, as soon as practical~~
939 ~~following the department's administrative hearing, report to the court or the Board of Pardons~~
940 ~~and Parole, furnishing a summary of the hearing, and may make recommendations regarding~~
941 ~~the disposition to be made of the parolee or probationer.]~~

942 ~~[(3)(a) Pending any proceeding under this section for a violation of probation or~~
943 ~~parole, the department:]~~

944 ~~[(i) except as provided in Subsection (3)(b), may take custody of and detain the parolee~~
945 ~~or probationer who committed the violation for a period not to exceed 72 hours excluding~~
946 ~~weekends and holidays; and]~~

947 ~~[(ii) if the department or the department's agent has probable cause that the conduct~~
948 ~~that led to the violation is an offense described in Subsection (1)(a)(iii), shall take custody of~~
949 ~~and detain the parolee or probationer who committed the violation for a period not to exceed 72~~
950 ~~hours excluding weekends and holidays.]~~

951 ~~[(b) The 72-hour period described in this Subsection (3) is reduced by the amount of~~
952 ~~time a probationer or parolee is detained under Subsection 17-22-5.5(6).]~~

953 ~~[(4) In cases where probationers are supervised by a local law enforcement agency, the~~
954 ~~agency may take custody of and detain the probationer involved for a period not to exceed 72~~
955 ~~hours excluding weekends and holidays if:]~~

956 ~~[(a) the probationer commits a major violation or repeated violations of probation;]~~

957 ~~[(b) it is unlikely that the court will conduct a hearing within a reasonable time to~~

958 determine if the offender has violated the conditions of probation; and]

959 [~~(c) the law enforcement agency conducts an administrative hearing within a~~
960 reasonable time to determine if there is probable cause to believe the offender has violated the
961 conditions of probation, unless the hearing is waived by the probationer.]

962 [~~(5) If the requirements for Subsection (4) are met, the local law enforcement agency~~
963 shall ensure the proper court is notified.]

964 [~~(6) If the hearing officer determines that there is probable cause to believe that the~~
965 offender has violated the conditions of the offender's parole or probation, the department may
966 detain the offender for a reasonable period of time after the hearing or waiver, as necessary to
967 arrange for the incarceration of the offender. A written order of the department is sufficient
968 authorization for any peace officer to incarcerate the offender. The department may promulgate
969 rules for the implementation of this section.]

970 [~~(7) A written order from the local law enforcement agency is sufficient authorization~~
971 for any peace officer to incarcerate the offender if:]

972 [~~(a) the probationers are supervised by a local law enforcement agency; and]~~

973 [~~(b) the appropriate officer or officers determine that there is probable cause to believe~~
974 that the offender has violated the conditions of probation.]

975 [~~(8) If a probationer supervised by a local law enforcement agency commits a violation~~
976 outside of the jurisdiction of the supervising agency, the arresting agency is not required to
977 hold or transport the probationer for the supervising agency.]

978 (3) The department:

979 (a) may place a 72-hour hold on a parolee or probationer if there is probable cause to
980 believe that the parolee or probationer has committed a violation other than a violent felony or
981 qualifying domestic violence offense; and

982 (b) shall place a 72-hour hold on a parolee or probationer if there is probable cause to
983 believe that the parolee or probationer has committed a violent felony or qualifying domestic
984 violence offense.

985 (4) (a) The department may not detain, or have a county jail detain, a probationer or
986 parolee for longer than 72 hours without a warrant or order issued by the court or Board of
987 Pardons and Parole.

988 (b) To obtain a warrant or order to detain a probationer or parolee for longer than 72

989 hours, the department shall seek the warrant or order from the court for a probationer or the
990 Board of Pardons and Parole for a parolee.

991 (c) The department may decline to seek a warrant or order under Subsection (4)(b) for
992 a probationer or parolee subject to a 72-hour hold and remove the 72-hour hold.

993 (5) This section does not require the department to release a probationer or parolee who
994 is being held for something other than a probation or parole violation, including a warrant
995 issued for new criminal conduct or a new conviction where the individual is sentenced to
996 incarceration.

997 (6) The department may make rules as necessary to implement this section in
998 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

999 Section 8. Section **77-11b-102** is amended to read:

1000 **77-11b-102. Property subject to forfeiture.**

1001 (1) (a) Except as provided in Subsection (2), (3), (4), or (5), an agency may seek to
1002 forfeit:

1003 (i) seized property that was used to facilitate the commission of an offense that is a
1004 violation of federal or state law; or

1005 (ii) seized proceeds.

1006 (b) An agency, or the prosecuting attorney, may not forfeit the seized property of an
1007 innocent owner or an interest holder.

1008 (2) If seized property is used to facilitate an offense that is a violation of Section
1009 [76-10-1204](#), [76-10-1205](#), [76-10-1206](#), or [76-10-1222](#), an agency may not forfeit the property if
1010 the forfeiture would constitute a prior restraint on the exercise of an affected party's rights
1011 under the First Amendment to the Constitution of the United States or Utah Constitution,
1012 Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's
1013 rights under the First Amendment to the Constitution of the United States or Utah
1014 Constitution, Article I, Section 15.

1015 (3) If a motor vehicle is used in an offense that is a violation of Section [41-6a-502](#),
1016 [41-6a-517](#), a local ordinance that complies with the requirements of Subsection [41-6a-510\(1\)](#),
1017 Subsection [76-5-102.1\(2\)\(b\)](#), or Section [76-5-207](#), an agency may not seek forfeiture of the
1018 motor vehicle, unless:

1019 (a) the operator of the vehicle has previously been convicted of an offense committed

1020 after May 12, 2009, that is:

1021 (i) a felony driving under the influence violation under Section 41-6a-502 or

1022 Subsection 76-5-102.1(2)(a);

1023 (ii) a felony violation under Subsection 76-5-102.1(2)(b);

1024 (iii) a violation under Section 76-5-207; or

1025 (iv) operating a motor vehicle with any amount of a controlled substance in an
1026 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
1027 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g); or

1028 (b) the operator of the vehicle was driving on a denied, suspended, revoked, or
1029 disqualified license and:

1030 (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii)
1031 was imposed because of a violation under:

1032 (A) Section 41-6a-502;

1033 (B) Section 41-6a-517;

1034 (C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

1035 (D) Section 41-6a-520.1;

1036 (E) operating a motor vehicle with any amount of a controlled substance in an
1037 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
1038 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

1039 (F) Section 76-5-102.1;

1040 (G) Section 76-5-207; or

1041 (H) a criminal prohibition as a result of a plea bargain after having been originally
1042 charged with violating one or more of the sections or ordinances described in Subsections
1043 (3)(b)(i)(A) through (G); or

1044 (ii) the denial, suspension, revocation, or disqualification described in Subsection
1045 (3)(b)(i):

1046 (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension,
1047 revocation, or disqualification; and

1048 (B) the original denial, suspension, revocation, or disqualification was imposed
1049 because of a violation described in Subsection (3)(b)(i).

1050 (4) If a peace officer seizes property incident to an arrest solely for possession of a

1051 controlled substance under Subsection [58-37-8\(2\)\(a\)\(i\)](#) but not Subsection [[58-37-8\(2\)\(b\)\(i\)](#)]
1052 [58-37-8\(2\)\(b\)\(iv\)\(E\)](#), an agency may not seek to forfeit the property that was seized in
1053 accordance with the arrest.

1054 (5) If a peace officer seizes an individual's firearm as the result of an offense under
1055 Section [76-10-529](#), an agency may not seek to forfeit the individual's firearm if the individual
1056 may lawfully possess the firearm.

1057 Section 9. Section **77-20-102** is amended to read:

1058 **77-20-102. Definitions.**

1059 As used in this chapter:

1060 (1) "Bail" means pretrial release.

1061 (2) "Bail bond" means the same as that term is defined in Section [31A-35-102](#).

1062 (3) "Bail bond agency" means the same as that term is defined in Section [31A-35-102](#).

1063 (4) "Bail bond producer" means the same as that term is defined in Section
1064 [31A-35-102](#).

1065 (5) "County jail official" means a county sheriff or the county sheriff's designee.

1066 (6) "Exonerate" means to release and discharge a surety, or a surety's bail bond
1067 producer, from liability for a bail bond.

1068 (7) "Financial condition" means any monetary condition that is imposed to secure an
1069 individual's pretrial release.

1070 (8) "Forfeiture" means:

1071 (a) to divest an individual or surety from a right to the repayment of monetary bail; or

1072 (b) to enforce a pledge of assets or real or personal property from an individual or
1073 surety used to secure an individual's pretrial release.

1074 (9) "Magistrate" means the same as that term is defined in Section [77-1-3](#).

1075 (10) (a) "Material change in circumstances" includes:

1076 (i) an unreasonable delay in prosecution that is not attributable to the defendant;

1077 (ii) a material change in the risk that an individual poses to a victim, a witness, or the
1078 public if released due to the passage of time or any other relevant factor;

1079 (iii) a material change in the conditions of release or the services that are reasonably
1080 available to the defendant if released;

1081 (iv) a willful or repeated failure by the defendant to appear at required court

1082 appearances; or

1083 (v) any other material change related to the defendant's risk of flight or danger to any
1084 other individual or to the community if released.

1085 (b) "Material change in circumstances" does not include any fact or consideration that
1086 is known at the time that the pretrial status order is issued.

1087 (11) "Monetary bail" means a financial condition.

1088 (12) "Own recognizance" means the release of an individual without any condition of
1089 release other than the individual's promise to:

1090 (a) appear for all required court proceedings; and

1091 (b) not commit any criminal offense.

1092 (13) "Pretrial detention hearing" means a hearing described in Section [77-20-206](#).

1093 (14) "Pretrial release" means the release of an individual from law enforcement custody
1094 during the time the individual awaits trial or other resolution of criminal charges.

1095 (15) "Pretrial risk assessment" means an objective, research-based, validated
1096 assessment tool that measures an individual's risk of flight and risk of anticipated criminal
1097 conduct while on pretrial release.

1098 (16) "Pretrial services program" means a program that is established to:

1099 (a) gather information on individuals booked into a jail facility;

1100 (b) conduct pretrial risk assessments; and

1101 (c) supervise individuals granted pretrial release.

1102 (17) "Pretrial status order" means an order issued by a magistrate or judge that:

1103 (a) releases the individual on the individual's own recognizance while the individual
1104 awaits trial or other resolution of criminal charges;

1105 (b) sets the terms and conditions of the individual's pretrial release while the individual
1106 awaits trial or other resolution of criminal charges; or

1107 (c) denies pretrial release and orders that the individual be detained while the
1108 individual awaits trial or other resolution of criminal charges.

1109 (18) "Principal" means the same as that term is defined in Section [31A-35-102](#).

1110 (19) "Surety" means a surety insurer or a bail bond agency.

1111 (20) "Surety insurer" means the same as that term is defined in Section [31A-35-102](#).

1112 (21) "Temporary pretrial status order" means an order issued by a magistrate that:

1113 (a) releases the individual on the individual's own recognizance until a pretrial status
1114 order is issued;

1115 (b) sets the terms and conditions of the individual's pretrial release until a pretrial status
1116 order is issued; or

1117 (c) denies pretrial release and orders that the individual be detained until a pretrial
1118 status order is issued.

1119 [~~22) "Unsecured bond" means an individual's promise to pay a financial condition if~~
1120 ~~the individual fails to appear for any required court appearance.]~~

1121 Section 10. Section ~~77-20-203~~ is amended to read:

1122 **77-20-203. County sheriff authority to release an individual from jail on own**
1123 **recognizance.**

1124 (1) As used in this section:

1125 (a) (i) "Qualifying domestic violence offense" means the same as that term is defined in
1126 Subsection [77-36-1.1\(4\)](#).

1127 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
1128 described in Section [76-6-106](#).

1129 ~~(a)~~ (b) "Qualifying offense" means the same as that term is defined in Section
1130 [78B-7-801](#).

1131 ~~(b)~~ (c) "Violent felony" means the same as that term is defined in [~~Subsection~~
1132 ~~[76-3-203.5\(1\)\(c\)\(i\)](#)] Section [76-3-203.5](#).~~

1133 (2) ~~[A]~~ Except as provided in Subsection (3), a county jail official may release an
1134 individual from a jail facility on the individual's own recognizance if:

1135 (a) the individual was arrested without a warrant;

1136 (b) the individual was not arrested for:

1137 (i) a violent felony;

1138 (ii) a qualifying offense;

1139 (iii) the offense of driving under the influence or driving with a measurable controlled
1140 substance in the body if the offense results in death or serious bodily injury to an individual; or

1141 (iv) an offense described in Subsection [76-9-101\(4\)](#);

1142 (c) law enforcement has not submitted a probable cause statement to a court or
1143 magistrate;

1144 (d) the individual agrees in writing to appear for any future criminal proceedings
1145 related to the arrest; and

1146 (e) the individual qualifies for release under the written policy described in Subsection
1147 ~~[(3)]~~ (4) for the county.

1148 (3) A county jail official may not release an individual from a jail facility if the
1149 individual is subject to a 72-hour hold placed on the individual by the Department of
1150 Corrections as described in Section [64-13-29](#).

1151 ~~[(3)]~~ (4) (a) A county sheriff shall create and approve a written policy for the county
1152 that governs the release of an individual on the individual's own recognizance.

1153 (b) The written policy shall describe the criteria an individual shall meet to be released
1154 on the individual's own recognizance.

1155 (c) A county sheriff may include in the written policy the criteria for release relating to:

1156 (i) criminal history;

1157 (ii) prior instances of failing to appear for a mandatory court appearance;

1158 (iii) current employment;

1159 (iv) residency;

1160 (v) ties to the community;

1161 (vi) an offense for which the individual was arrested;

1162 (vii) any potential criminal charges that have not yet been filed;

1163 (viii) the individual's health condition;

1164 (ix) any potential risks to a victim, a witness, or the public; and

1165 (x) any other similar factor a sheriff determines is relevant.

1166 (5) (a) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an
1167 individual for up to 24 hours from booking if:

1168 (i) the individual is on supervised probation or parole and that information is
1169 reasonably available; and

1170 (ii) the individual was arrested for:

1171 (A) a violent felony; or

1172 (B) a qualifying domestic violence offense.

1173 (b) The jail facility shall:

1174 (i) notify the entity supervising the individual's probation or parole that the individual

1175 is being detained; and

1176 (ii) release the individual:

1177 (A) to the Department of Corrections if the Department of Corrections supervises the
1178 individual and requests the individual's release; or

1179 (B) if a court or magistrate orders release.

1180 (c) This Subsection (5) does not prohibit a jail facility from holding the individual in
1181 accordance with this chapter for a new criminal offense.

1182 ~~[(4)]~~ (6) [Nothing in this section prohibits] This section does not prohibit a court and a
1183 county from entering into an agreement regarding release.

1184 Section 11. Section **77-20-204** is amended to read:

1185 **77-20-204. County sheriff authority to release an individual from jail on**
1186 **monetary bail.**

1187 (1) As used in this section, "eligible felony offense" means a third degree felony
1188 violation under:

1189 (a) Section [23A-4-501](#) or [23A-4-502](#);

1190 (b) Section [23A-5-311](#);

1191 (c) Section [23A-5-313](#);

1192 (d) Title 76, Chapter 6, Part 4, Theft;

1193 (e) Title 76, Chapter 6, Part 5, Fraud;

1194 (f) Title 76, Chapter 6, Part 6, Retail Theft;

1195 (g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;

1196 (h) Title 76, Chapter 6, Part 8, Library Theft;

1197 (i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;

1198 (j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;

1199 (k) Title 76, Chapter 6, Part 11, Identity Fraud Act;

1200 (l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;

1201 (m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;

1202 (n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;

1203 (o) Title 76, Chapter 6a, Pyramid Scheme Act;

1204 (p) Title 76, Chapter 7, Offenses Against the Family;

1205 (q) Title 76, Chapter 7a, Abortion Prohibition;

- 1206 (r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;
- 1207 (s) Title 76, Chapter 9, Part 3, Cruelty to Animals;
- 1208 (t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;
- 1209 (u) Title 76, Chapter 9, Part 5, Libel; or
- 1210 (v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.
- 1211 (2) Except as provided in Subsection (7)(a), a county jail official may fix a financial
- 1212 condition for an individual if:
- 1213 (a) (i) the individual is ineligible to be released on the individual's own recognizance
- 1214 under Section [77-20-203](#);
- 1215 (ii) the individual is arrested for, or charged with:
- 1216 (A) a misdemeanor offense under state law; or
- 1217 (B) a violation of a city or county ordinance that is classified as a class B or C
- 1218 misdemeanor offense;
- 1219 (iii) the individual agrees in writing to appear for any future criminal proceedings
- 1220 related to the arrest; and
- 1221 (iv) law enforcement has not submitted a probable cause statement to a magistrate; or
- 1222 (b) (i) the individual is arrested for, or charged with, an eligible felony offense;
- 1223 (ii) the individual is not on pretrial release for a separate criminal offense;
- 1224 (iii) the individual is not on probation or parole;
- 1225 (iv) the primary risk posed by the individual is the risk of failure to appear;
- 1226 (v) the individual agrees in writing to appear for any future criminal proceedings
- 1227 related to the arrest; and
- 1228 (vi) law enforcement has not submitted a probable cause statement to a magistrate.
- 1229 (3) A county jail official may not fix a financial condition at a monetary amount that
- 1230 exceeds:
- 1231 (a) \$5,000 for an eligible felony offense;
- 1232 (b) \$1,950 for a class A misdemeanor offense;
- 1233 (c) \$680 for a class B misdemeanor offense;
- 1234 (d) \$340 for a class C misdemeanor offense;
- 1235 (e) \$150 for a violation of a city or county ordinance that is classified as a class B
- 1236 misdemeanor; or

1237 (f) \$80 for a violation of a city or county ordinance that is classified as a class C
1238 misdemeanor.

1239 (4) If an individual is arrested for more than one offense, and the county jail official
1240 fixes a financial condition for release:

1241 (a) the county jail official shall fix the financial condition at a single monetary amount;
1242 and

1243 (b) the single monetary amount may not exceed the monetary amount under Subsection
1244 (3) for the highest level of offense for which the individual is arrested.

1245 (5) Except as provided in Subsection (7)(b), an individual shall be released if the
1246 individual posts a financial condition fixed by a county jail official in accordance with this
1247 section.

1248 (6) If a county jail official fixes a financial condition for an individual, law
1249 enforcement shall submit a probable cause statement in accordance with Rule 9 of the Utah
1250 Rules of Criminal Procedure after the county jail official fixes the financial condition.

1251 (7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah
1252 Rules of Criminal Procedure:

1253 (a) a county jail official may not fix or modify a financial condition for an individual;
1254 and

1255 (b) if a county jail official fixed a financial condition for the individual before the
1256 magistrate's review, the individual may no longer be released on the financial condition.

1257 (8) A jail facility may not release an individual subject to a 72-hour hold placed on the
1258 individual by the Department of Corrections as described in Section [64-13-29](#).

1259 ~~[(8)]~~ (9) ~~[Nothing in this section prohibits]~~ This section does not prohibit a court and a
1260 county from entering into an agreement regarding release.

1261 Section 12. Section **77-20-205** is amended to read:

1262 **77-20-205. Pretrial release by a magistrate or judge.**

1263 (1) (a) At the time that a magistrate issues a warrant of arrest, or finds there is probable
1264 cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal Procedure,
1265 the magistrate shall issue a temporary pretrial status order that:

1266 (i) releases the individual on the individual's own recognizance during the time the
1267 individual awaits trial or other resolution of criminal charges;

1268 (ii) designates a condition, or a combination of conditions, to be imposed upon the
1269 individual's release during the time the individual awaits trial or other resolution of criminal
1270 charges; or

1271 (iii) orders the individual be detained during the time the individual awaits trial or
1272 other resolution of criminal charges.

1273 (b) At the time that a magistrate issues a summons, the magistrate may issue a
1274 temporary pretrial status order that:

1275 (i) releases the individual on the individual's own recognizance during the time the
1276 individual awaits trial or other resolution of criminal charges; or

1277 (ii) designates a condition, or a combination of conditions, to be imposed upon the
1278 individual's release during the time the individual awaits trial or other resolution of criminal
1279 charges.

1280 (2) (a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a
1281 pretrial status order at an individual's first appearance before the court.

1282 (b) The magistrate or judge may delay the issuance of a pretrial status order at an
1283 individual's first appearance before the court:

1284 (i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for
1285 pretrial detention as described in Section [77-20-206](#);

1286 (ii) if a party requests a delay; or

1287 (iii) if there is good cause to delay the issuance.

1288 (c) If a magistrate or judge delays the issuance of a pretrial status order under
1289 Subsection (2)(b), the magistrate or judge shall extend the temporary pretrial status order until
1290 the issuance of a pretrial status order.

1291 (3) (a) When a magistrate or judge issues a pretrial status order, the pretrial status order
1292 shall:

1293 (i) release the individual on the individual's own recognizance during the time the
1294 individual awaits trial or other resolution of criminal charges;

1295 (ii) designate a condition, or a combination of conditions, to be imposed upon the
1296 individual's release during the time the individual awaits trial or other resolution of criminal
1297 charges; or

1298 (iii) order the individual to be detained during the time that individual awaits trial or

1299 other resolution of criminal charges.

1300 (b) In making a determination about pretrial release in a pretrial status order, the
1301 magistrate or judge may not give any deference to a magistrate's decision in a temporary
1302 pretrial status order.

1303 (4) In making a determination about pretrial release, a magistrate or judge shall
1304 impose;

1305 (a) only conditions of release that are reasonably available [~~and necessary to reasonably~~
1306 ~~ensure~~]; and

1307 (b) conditions of release that ensure:

1308 [~~(a)~~] (i) the individual's appearance in court when required;

1309 [~~(b)~~] (ii) the safety of any witnesses or victims of the offense allegedly committed by
1310 the individual;

1311 [~~(c)~~] (iii) the safety and welfare of the public; and

1312 [~~(d)~~] (iv) that the individual will not obstruct, or attempt to obstruct, the criminal
1313 justice process.

1314 (5) Except as provided in Subsection (6), a magistrate or judge may impose a
1315 condition, or combination of conditions, for pretrial release that requires an individual to:

1316 (a) not commit a federal, state, or local offense during the period of pretrial release;

1317 (b) avoid contact with a victim of the alleged offense;

1318 (c) avoid contact with a witness who:

1319 (i) may testify concerning the alleged offense; and

1320 (ii) is named in the pretrial status order;

1321 (d) not consume alcohol or any narcotic drug or other controlled substance unless
1322 prescribed by a licensed medical practitioner;

1323 (e) submit to drug or alcohol testing;

1324 (f) complete a substance abuse evaluation and comply with any recommended
1325 treatment or release program;

1326 (g) submit to electronic monitoring or location device tracking;

1327 (h) participate in inpatient or outpatient medical, behavioral, psychological, or
1328 psychiatric treatment;

1329 (i) maintain employment or actively seek employment if unemployed;

- 1330 (j) maintain or commence an education program;
- 1331 (k) comply with limitations on where the individual is allowed to be located or the
- 1332 times that the individual shall be, or may not be, at a specified location;
- 1333 (l) comply with specified restrictions on personal associations, place of residence, or
- 1334 travel;
- 1335 (m) report to a law enforcement agency, pretrial services program, or other designated
- 1336 agency at a specified frequency or on specified dates;
- 1337 (n) comply with a specified curfew;
- 1338 (o) forfeit or refrain from possession of a firearm or other dangerous weapon;
- 1339 (p) if the individual is charged with an offense against a child, limit or prohibit access
- 1340 to any location or occupation where children are located, including any residence where
- 1341 children are on the premises, activities where children are involved, locations where children
- 1342 congregate, or where a reasonable person would know that children congregate;
- 1343 (q) comply with requirements for house arrest;
- 1344 (r) return to custody for a specified period of time following release for employment,
- 1345 schooling, or other limited purposes;
- 1346 (s) remain in custody of one or more designated individuals who agree to:
- 1347 (i) supervise and report on the behavior and activities of the individual; and
- 1348 (ii) encourage compliance with all court orders and attendance at all required court
- 1349 proceedings;
- 1350 (t) comply with a financial condition; or
- 1351 (u) comply with any other condition that is reasonably available and necessary to
- 1352 ensure compliance with Subsection (4).
- 1353 (6) (a) If a county or municipality has established a pretrial services program, the
- 1354 magistrate or judge shall consider the services that the county or municipality has identified as
- 1355 available in determining what conditions of release to impose.
- 1356 (b) The magistrate or judge may not order conditions of release that would require the
- 1357 county or municipality to provide services that are not currently available from the county or
- 1358 municipality.
- 1359 (c) Notwithstanding Subsection (6)(a), the magistrate or judge may impose conditions
- 1360 of release not identified by the county or municipality so long as the condition does not require

1361 assistance or resources from the county or municipality.

1362 (7) (a) If the magistrate or judge determines that a financial condition [~~other than an~~
1363 ~~unsecured bond,~~] is necessary to impose as a condition of release, the magistrate or judge shall
1364 consider the individual's ability to pay when determining the amount of the financial condition.

1365 (b) If the magistrate or judge determines that a financial condition is necessary to
1366 impose as a condition of release, and a county jail official fixed a financial condition for the
1367 individual under Section 77-20-204, the magistrate or judge may not give any deference to:

1368 (i) the county jail official's action to fix a financial condition; or

1369 (ii) the amount of the financial condition that the individual was required to pay for
1370 pretrial release.

1371 (c) If a magistrate or judge orders a financial condition as a condition of release, the
1372 judge or magistrate shall set the financial condition at a single amount per case.

1373 (8) In making a determination about pretrial release, the magistrate or judge may:

1374 (a) rely upon information contained in:

1375 (i) the indictment or information;

1376 (ii) any sworn or probable cause statement or other information provided by law
1377 enforcement;

1378 (iii) a pretrial risk assessment;

1379 (iv) an affidavit of indigency described in Section 78B-22-201.5;

1380 (v) witness statements or testimony;

1381 (vi) the results of a lethality assessment completed in accordance with Section
1382 77-36-2.1; or

1383 (vii) any other reliable record or source, including proffered evidence; and

1384 (b) consider:

1385 (i) the nature and circumstances of the offense, or offenses, that the individual was
1386 arrested for, or charged with, including:

1387 (A) whether the offense is a violent offense; and

1388 (B) the vulnerability of a witness or alleged victim;

1389 (ii) the nature and circumstances of the individual, including the individual's:

1390 (A) character;

1391 (B) physical and mental health;

- 1392 (C) family and community ties;
- 1393 (D) employment status or history;
- 1394 (E) financial resources;
- 1395 (F) past criminal conduct;
- 1396 (G) history of drug or alcohol abuse; and
- 1397 (H) history of timely appearances at required court proceedings;
- 1398 (iii) the potential danger to another individual, or individuals, posed by the release of
- 1399 the individual;
- 1400 (iv) whether the individual was on probation, parole, or release pending an upcoming
- 1401 court proceeding at the time the individual allegedly committed the offense or offenses;
- 1402 (v) the availability of:
- 1403 (A) other individuals who agree to assist the individual in attending court when
- 1404 required; or
- 1405 (B) supervision of the individual in the individual's community;
- 1406 (vi) the eligibility and willingness of the individual to participate in various treatment
- 1407 programs, including drug treatment; or
- 1408 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the
- 1409 law if released.
- 1410 (9) The magistrate or judge may not base a determination about pretrial release solely
- 1411 on the seriousness or type of offense that the individual is arrested for or charged with, unless
- 1412 the individual is arrested for or charged with a [~~capital felony~~] violent felony as defined in
- 1413 Section 76-3-203.5.
- 1414 (10) An individual arrested for violation of a jail release agreement, or a jail release
- 1415 court order, issued in accordance with Section 78B-7-802:
- 1416 (a) may not be released before the individual's first appearance before a magistrate or
- 1417 judge; and
- 1418 (b) may be denied pretrial release by the magistrate or judge.
- 1419 Section 13. Section **77-20-210** is enacted to read:
- 1420 **77-20-210. Violation of pretrial release order -- 24-hour hold for violation.**
- 1421 **(1) As used in this section, "pretrial release order" means a pretrial status order or a**
- 1422 **temporary pretrial status order.**

1423 (2) (a) An individual commits a violation of a pretrial release order if the individual:

1424 (i) is released by a magistrate or judge upon the issuance of a pretrial release order that
 1425 imposes a condition, or a combination of conditions, for the individual's pretrial release; and

1426 (ii) the individual knowingly or intentionally violates a condition in the pretrial release
 1427 order.

1428 (b) A violation of Subsection (2)(a) is a class C misdemeanor.

1429 (3) (a) If a county sheriff determines that there is probable cause to believe that an
 1430 individual has committed a violation of a pretrial release order as described in Subsection (2),
 1431 the county sheriff may take custody of, and detain, the individual for a maximum of 24 hours
 1432 without obtaining a warrant issued by a court.

1433 (b) If the county sheriff detains an individual under Subsection (3)(a), the county
 1434 sheriff shall ensure that the court is notified.

1435 (4) A written order from the county sheriff is sufficient authorization for a peace
 1436 officer to detain an individual if the county sheriff has determined that there is probable cause
 1437 to believe that the individual has committed a violation of a pretrial release order.

1438 (5) If an individual commits a violation of a pretrial release order outside of the
 1439 jurisdiction of the county sheriff supervising the individual on pretrial release, the arresting law
 1440 enforcement agency is not required to hold or transport the individual to the county sheriff.

1441 (6) This section does not prohibit a county sheriff or jail facility from holding an
 1442 individual in accordance with this chapter for a new criminal offense.

1443 Section 14. Section **77-20-402** is amended to read:

1444 **77-20-402. Payment of monetary bail to court -- Specific payment methods --**
 1445 **Refund of monetary bail.**

1446 (1) Subject to Subsection (2), a defendant may choose to post the amount of monetary
 1447 bail imposed by a judge or magistrate by any of the following methods:

1448 (a) in cash;

1449 (b) by a bail bond with a surety; or

1450 [~~(c) by an unsecured bond, at the discretion of the judge or magistrate; or~~]

1451 [~~(d)~~] (c) by credit or debit card, at the discretion of the judge or magistrate.

1452 (2) A judge or magistrate may limit a defendant to a specific method of posting
 1453 monetary bail described in Subsection (1):

1454 (a) if, after charges are filed, the defendant fails to appear in the case on a bail bond
1455 and the case involves a violent offense;

1456 (b) in order to allow the defendant to voluntarily remit the fine in accordance with
1457 Section 77-7-21 and the offense with which the defendant is charged is listed in the shared
1458 master offense table as one for which an appearance is not mandatory;

1459 (c) if the defendant has failed to respond to a citation or summons and the offense with
1460 which the defendant is charged is listed in the shared master offense table as one for which an
1461 appearance is not mandatory;

1462 (d) if a warrant is issued for the defendant solely for failure to pay a criminal accounts
1463 receivable, as defined in Section 77-32b-102, and the defendant's monetary bail is limited to
1464 the amount owed; or

1465 (e) if a court has entered a judgment of bail bond forfeiture under Section 77-20-505 in
1466 any case involving the defendant.

1467 (3) Monetary bail may not be accepted without receiving in writing at the time the bail
1468 is posted the current mailing address, telephone number, and email address of the surety.

1469 (4) Monetary bail posted by debit or credit card, less the fee charged by the financial
1470 institution, shall be tendered to the courts.

1471 (5) (a) Monetary bail refunded by the court may be refunded by credit to the debit or
1472 credit card or in cash.

1473 (b) The amount refunded shall be the full amount received by the court under
1474 Subsection (4), which may be less than the full amount of the monetary bail set by the judge or
1475 magistrate.

1476 (c) Before refunding monetary bail that is posted by the defendant in cash, by credit
1477 card, or by debit card, the court may apply the amount posted toward a criminal accounts
1478 receivable, as defined in Section 77-32b-102, that is owed by the defendant in the priority set
1479 forth in Section 77-38b-304.

1480 Section 15. Section 77-40a-101 is amended to read:

1481 **77-40a-101. Definitions.**

1482 As used in this chapter:

1483 (1) "Agency" means a state, county, or local government entity that generates or
1484 maintains records relating to an investigation, arrest, detention, or conviction for an offense for

1485 which expungement may be ordered.

1486 (2) "Bureau" means the Bureau of Criminal Identification of the Department of Public
1487 Safety established in Section 53-10-201.

1488 (3) "Certificate of eligibility" means a document issued by the bureau stating that the
1489 criminal record and all records of arrest, investigation, and detention associated with a case that
1490 is the subject of a petition for expungement is eligible for expungement.

1491 (4) (a) "Clean slate eligible case" means, except as provided in Subsection (4)(c), a
1492 case:

1493 (i) where each conviction within the case is:

1494 (A) a misdemeanor conviction for possession of a controlled substance in violation of
1495 Subsection 58-37-8(2)(a)(i);

1496 (B) a class B or class C misdemeanor conviction; or

1497 (C) an infraction conviction;

1498 (ii) that involves an individual:

1499 (A) whose total number of convictions in Utah state courts, not including infractions,
1500 traffic offenses, or minor regulatory offenses, does not exceed the limits described in
1501 Subsections 77-40a-303(4) and (5) without taking into consideration the exception in
1502 Subsection 77-40a-303(7); and

1503 (B) against whom no criminal proceedings are pending in the state; and

1504 (iii) for which the following time periods have elapsed from the day on which the case
1505 is adjudicated:

1506 (A) at least five years for a class C misdemeanor or an infraction;

1507 (B) at least six years for a class B misdemeanor; and

1508 (C) at least seven years for a class A conviction for possession of a controlled
1509 substance in violation of Subsection 58-37-8(2)(a)(i).

1510 (b) "Clean slate eligible case" includes a case:

1511 (i) that is dismissed as a result of a successful completion of a plea in abeyance
1512 agreement governed by Subsection 77-2a-3(2)(b) if:

1513 (A) except as provided in Subsection (4)(c), each charge within the case is a
1514 misdemeanor for possession of a controlled substance in violation of Subsection
1515 58-37-8(2)(a)(i), a class B or class C misdemeanor, or an infraction;

- 1516 (B) the individual involved meets the requirements of Subsection (4)(a)(ii); and
- 1517 (C) the time periods described in Subsections (4)(a)(iii)(A) through (C) have elapsed
- 1518 from the day on which the case is dismissed; or
- 1519 (ii) where charges are dismissed without prejudice if each conviction, or charge that
- 1520 was dismissed, in the case would otherwise meet the requirements under Subsection (4)(a) or
- 1521 (b)(i).
- 1522 (c) "Clean slate eligible case" does not include a case:
- 1523 (i) where the individual is found not guilty by reason of insanity;
- 1524 (ii) where the case establishes a criminal accounts receivable, as defined in Section
- 1525 [77-32b-102](#), that:
 - 1526 (A) has been entered as a civil accounts receivable or a civil judgment of restitution, as
 - 1527 those terms are defined in Section [77-32b-102](#), and transferred to the Office of State Debt
 - 1528 Collection under Section [77-18-114](#); or
 - 1529 (B) has not been satisfied according to court records; or
 - 1530 (iii) that resulted in one or more pleas held in abeyance or convictions for the following
 - 1531 offenses:
 - 1532 (A) any of the offenses listed in Subsection [77-40a-303\(2\)\(a\)](#);
 - 1533 (B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
 - 1534 the Individual;
 - 1535 (C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;
 - 1536 (D) sexual battery in violation of Section [76-9-702.1](#);
 - 1537 (E) an act of lewdness in violation of Section [76-9-702](#) or [76-9-702.5](#);
 - 1538 (F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence
 - 1539 and Reckless Driving;
 - 1540 (G) damage to or interruption of a communication device in violation of Section
 - 1541 [76-6-108](#);
 - 1542 (H) a domestic violence offense as defined in Section [77-36-1](#); or
 - 1543 (I) any other offense classified in the Utah Code as a felony or a class A misdemeanor
 - 1544 other than a class A misdemeanor conviction for possession of a controlled substance in
 - 1545 violation of Subsection [58-37-8\(2\)\(a\)\(i\)](#).
 - 1546 (5) "Conviction" means judgment by a criminal court on a verdict or finding of guilty

1547 after trial, a plea of guilty, or a plea of nolo contendere.

1548 (6) "Criminal protective order" means the same as that term is defined in Section
1549 78B-7-102.

1550 (7) "Criminal stalking injunction" means the same as that term is defined in Section
1551 78B-7-102.

1552 (8) "Department" means the Department of Public Safety established in Section
1553 53-1-103.

1554 (9) "Drug possession offense" means an offense under:

1555 (a) Subsection 58-37-8(2), except for:

1556 (i) any offense under Subsection [~~58-37-8(2)(b)(i)~~ 58-37-8(2)(b)(iv)(E), possession of
1557 100 pounds or more of marijuana;

1558 (ii) any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional
1559 facility; or

1560 (iii) driving with a controlled substance illegally in the person's body and negligently
1561 causing serious bodily injury or death of another, as codified before May 4, 2022,

1562 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

1563 (b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

1564 (c) Section 58-37b-6, possession or use of an imitation controlled substance; or

1565 (d) any local ordinance which is substantially similar to any of the offenses described
1566 in this Subsection (9).

1567 (10) "Expunge" means to seal or otherwise restrict access to the individual's record
1568 held by an agency when the record includes a criminal investigation, detention, arrest, or
1569 conviction.

1570 (11) "Jurisdiction" means a state, district, province, political subdivision, territory, or
1571 possession of the United States or any foreign country.

1572 (12) (a) "Minor regulatory offense" means, except as provided in Subsection (12)(c), a
1573 class B or C misdemeanor offense or a local ordinance.

1574 (b) "Minor regulatory offense" includes an offense under Section 76-9-701 or
1575 76-10-105.

1576 (c) "Minor regulatory offense" does not include:

1577 (i) any drug possession offense;

1578 (ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
1579 Reckless Driving;

1580 (iii) an offense under Sections 73-18-13 through 73-18-13.6;

1581 (iv) except as provided in Subsection (12)(b), an offense under Title 76, Utah Criminal
1582 Code; or

1583 (v) any local ordinance that is substantially similar to an offense listed in Subsections
1584 (12)(c)(i) through (iv).

1585 (13) "Petitioner" means an individual applying for expungement under this chapter.

1586 (14) "Plea in abeyance" means the same as that term is defined in Section 77-2a-1.

1587 (15) (a) "Traffic offense" means, except as provided in Subsection (15)(b):

1588 (i) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
1589 under Title 41, Chapter 6a, Traffic Code;

1590 (ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
1591 under Title 53, Chapter 3, Part 2, Driver Licensing Act;

1592 (iii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
1593 under Title 73, Chapter 18, State Boating Act; and

1594 (iv) all local ordinances that are substantially similar to an offense listed in Subsections
1595 (15)(a)(i) through (iii).

1596 (b) "Traffic offense" does not mean:

1597 (i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
1598 Reckless Driving;

1599 (ii) an offense under Sections 73-18-13 through 73-18-13.6; or

1600 (iii) any local ordinance that is substantially similar to an offense listed in Subsection
1601 (15)(b)(i) or (ii).

1602 (16) "Traffic offense case" means that each offense in the case is a traffic offense.

1603 Section 16. **Effective date.**

1604 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

1605 (2) The actions affecting Section 58-37-8 (Effective 07/01/24) take effect on July 1,
1606 2024.