

HEALTH AND HUMAN SERVICES AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael S. Kennedy

House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill clarifies and amends provisions affecting the Department of Health and Human Services.

Highlighted Provisions:

This bill:

- defines terms;
- makes technical and corresponding amendments;
- clarifies provisions that the Department of Health and Human Services has identified as not applicable or incongruous after the 2023 recodification pertaining to health and human services;
- creates the Division of Health Access within the Department of Health and Human Services;
- removes the authority of the chair of the Utah Substance Use and Mental Health Advisory Council to establish the goals and budget for an application for a federal grant, in a situation where the six-member committee comprised of individuals from the Department of Health and Human Services and local health departments is unable to agree by two-thirds majority on the goals and budget for a reviewable application for a federal grant;
- modifies the prescribed procedures for the Department of Health and Family Services' review of an individual's appeal of the Compassionate Use Board's denial of the individual's application for a medical cannabis card;
- creates the Office of Licensing within the Division of Licensing and Background Checks;
- creates the Office of Background Processing within the Division of Licensing and Background Checks;

28 ▸ removes education, experience, and knowledge requirements to serve as the director of the
Division of Licensing and Background Checks;

30 ▸ modifies the definition of "applicant" for individuals seeking approval to
31 have direct access to children or vulnerable adults;

32 ▸ modifies the terms of background checks and ongoing fingerprint monitoring to which
33 an applicant must consent in connection with applying to the Office of Background Processing
34 for direct access to children or vulnerable adults;

35 ▸ requires the Office of Background Processing to search the Sex and Kidnap Offender
36 Registry as part of its duties in performing a background check;

37 ▸ prescribes other procedures for the Office of Background Processing to follow in
38 performing a background check;

39 ▸ modifies the parameters under which an applicant with a criminal history, or an
40 applicant who is listed on a child abuse and neglect registry of any state, is screened by the
41 Office of Background Processing or may qualify for direct access to children and vulnerable
42 adults;

43 ▸ modifies the numerical limit of foster children who may reside in a home, and
44 establishes when those limits may be exceeded;

45 ▸ reduces from two years to 180 days the length of time a certification for direct patient
46 access is valid before renewal is required;

47 ▸ modifies the definition of "rural county" to mean counties of the third through sixth
48 classes (i.e. classes with populations less than 175,000) and no longer to mean counties with
49 populations less than 50,000;

50 ▸ modifies the definition of "rural hospital" as a result of modifying the definition of "rural
51 county";

52 ▸ removes the requirement that the executive director of the Department of Health and
53 Human Services consider the advice of the chairman of the Department of Pathology at the
54 University of Utah and the dean of the law school at the University of Utah;

55 ▸ requires that a county executive obtain the approval of the state's chief medical examiner
56 before appointing a county medical examiner;

57 ▸ clarifies which records of a medical examiner are subject to production by the medical
58 examiner, when a portion of the medical examiner's record relates to an issue of public health
59 or safety;

60 ▸ permits a medical examiner, prior to taking required steps pertaining to identification of
61 an unidentified body, to release the unidentified body to the county in which the body was

found;

- removes the requirement that a county or funeral director adopt the identification number the medical examiner assigned to an unidentified body;

- removes the requirement that a county inform the medical examiner of certain information pertaining to the county's disposition of an unidentified body;

- removes the requirement that a medical examiner maintain a file for unidentified bodies;

- expands the scope of individuals from whom a psychological autopsy examiner may gather information regarding a decedent's death; and

- expands the scope of information a psychological autopsy examiner may gather regarding a decedent's death.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

4-41a-102 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapters 273, 313 and 327

4-41a-1001 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

4-41a-1102 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

4-41a-1202 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

17-43-203 (Effective 05/01/24), as last amended by Laws of Utah 2004, Chapter 80

17-43-301 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapters 15, 327

26A-1-112 (Effective 05/01/24), as last amended by Laws of Utah 2011, Chapter 297

26A-1-113 (Effective 05/01/24), as last amended by Laws of Utah 2022, Chapter 415

26A-1-120 (Effective 05/01/24), as last amended by Laws of Utah 2002, Chapter 249

26B-1-202 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapter 302

26B-1-204 (Effective 05/01/24) (Superseded 07/01/24), as last amended by Laws of Utah

2023, Chapters 249, 305

26B-1-204 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapters 249, 305 and 310

26B-1-207 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapter 272

26B-1-237 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-1-324 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapter 270 and renumbered and amended by Laws of Utah 2023, Chapter 305

26B-1-414 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapter 249 and renumbered and amended by Laws of Utah 2023, Chapter 305

26B-1-421 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 305

26B-1-422.1 (Effective 05/01/24), as enacted by Laws of Utah 2023, Chapter 269 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 305

26B-1-435 (Effective 05/01/24), as enacted by Laws of Utah 2023, Chapter 273

26B-1-435.1 (Effective 05/01/24), as enacted by Laws of Utah 2023, Chapter 273

26B-1-502 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-101 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapter 305

26B-2-103 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-104 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-120 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapter 344 and renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-122 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-128 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-201 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-202 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-204 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapter 301 and

renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-238 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-239 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-240 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-241 (Effective 05/01/24) (Superseded 07/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-241 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapter 310 and renumbered and amended by Laws of Utah 2023, Chapter 305

26B-3-114 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-3-212 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapter 316 and renumbered and amended by Laws of Utah 2023, Chapter 306

26B-4-118 (Effective 05/01/24) (Superseded 07/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 307

26B-4-136 (Effective 05/01/24) (Superseded 07/01/24), as last amended by Laws of Utah 2023, Chapter 16 and renumbered and amended by Laws of Utah 2023, Chapter 307

26B-4-152 (Effective 05/01/24) (Superseded 07/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 307

26B-4-154 (Effective 05/01/24) (Superseded 07/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 307

26B-4-201 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307

26B-4-202 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

26B-4-213 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

26B-4-214 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapter 307

26B-4-222 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapters 273, 281

and renumbered and amended by Laws of Utah 2023, Chapter 307

26B-4-245 (Effective 05/01/24), as enacted by Laws of Utah 2023, Chapter 273

26B-4-701 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 307

26B-5-101 (Effective 05/01/24), as last amended by Laws of Utah 2023, Chapter 308

26B-5-403 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 308

26B-6-401 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 308

26B-7-213 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 308

26B-7-215 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 308

26B-8-201 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-8-202 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-8-203 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-8-205 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-8-207 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-8-210 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-8-217 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-8-221 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-8-223 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-8-225 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-8-227 (Effective 05/01/24), as renumbered and amended by Laws of Utah 2023,

198 Chapter 306
199 **26B-8-229 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2023,
200 Chapter 306
201 **34A-6-107 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 1997,
202 Chapter 375
203 **53-2a-802 (Effective 05/01/24)**, as last amended by Laws of Utah 2022, Chapter 447
204 **53-2d-404 (Effective 07/01/24)**, as renumbered and amended by Laws of Utah 2023,
205 Chapters 307, 310
206 **53-2d-503 (Effective 07/01/24)**, as renumbered and amended by Laws of Utah 2023,
207 Chapters 307, 310
208 **53-2d-703 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 16 and
209 renumbered and amended by Laws of Utah 2023, Chapters 307, 310
210 **53-10-404 (Effective 05/01/24)**, as last amended by Laws of Utah 2021, Chapter 262
211 **53-10-407 (Effective 05/01/24)**, as last amended by Laws of Utah 2021, Chapter 262
212 **53E-10-301 (Effective 05/01/24)**, as last amended by Laws of Utah 2021, Chapter 379
213 **53G-8-211 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 161
214 **53G-8-213 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapter 161
215 **53G-10-406 (Effective 05/01/24)**, as last amended by Laws of Utah 2022, Chapter 447
216 **58-17b-309.7 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 328
217 **58-17b-620 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 328
218 **63B-3-102 (Effective 05/01/24)**, as last amended by Laws of Utah 2014, Chapter 196
219 **63B-3-301 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 369
220 **63B-4-102 (Effective 05/01/24)**, as last amended by Laws of Utah 2014, Chapter 196
221 **63B-11-702 (Effective 05/01/24)**, as last amended by Laws of Utah 2003, Chapter 171
222 **63M-7-208 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 161
223 **63M-7-401 (Effective 05/01/24)**, as last amended by Laws of Utah 2021, Chapter 173
224 **63M-7-601 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 150
225 **63M-7-702 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 150
226 **63M-7-802 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapter 155
227 **67-5b-101 (Effective 05/01/24)**, as last amended by Laws of Utah 2016, Chapter 290
228 **76-3-401.5 (Effective 05/01/24)**, as enacted by Laws of Utah 2021, Chapter 37 and last
229 amended by Coordination Clause, Laws of Utah 2021, Chapter 261
230 **76-5-101 (Effective 05/01/24)**, as last amended by Laws of Utah 2022, Chapter 181
231 **76-5-413 (Effective 05/01/24)**, as last amended by Laws of Utah 2022, Chapters 181, 255

232 **76-8-311.5 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2021,
233 Chapter 261
234 **77-16b-102 (Effective 05/01/24)**, as last amended by Laws of Utah 2021, Chapter 262
235 **77-38-3 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 426
236 **77-41-102 (Effective 05/01/24) (Superseded 07/01/24)**, as last amended by Laws of Utah
237 2023, Chapter 123
238 **77-41-102 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 123, 128
239 **78A-6-212 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2021,
240 Chapter 261
241 **78B-7-804 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapters 237, 426
242 **78B-7-805 (Effective 05/01/24)**, as last amended by Laws of Utah 2021, Chapter 159 and
243 last amended by Coordination Clause, Laws of Utah 2021, Chapter 159
244 **78B-24-307 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 330
245 **78B-24-308 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 330
246 **80-2-301 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 280
247 **80-2-703 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2022, Chapter
248 334
249 **80-2-1001 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapters 309, 330
250 **80-2-1002 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 330
251 **80-3-409 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapters 309, 320
252 **80-5-102 (Effective 05/01/24)**, as last amended by Laws of Utah 2022, Chapter 255
253 **80-5-103 (Effective 05/01/24)**, as renumbered and amended by Laws of Utah 2021, Chapter
254 261
255 **80-5-401 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 93
256 **80-6-102 (Effective 05/01/24)**, as last amended by Laws of Utah 2022, Chapter 155

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

259 Section 1. Section **4-41a-102** is amended to read:

260 **4-41a-102 (Effective 05/01/24). Definitions.**

261 As used in this chapter:

- 262 (1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be
263 injurious to health, including:
264 (a) pesticides;
265 (b) heavy metals;

- 266 (c) solvents;
267 (d) microbial life;
268 (e) artificially derived cannabinoid;
269 (f) toxins; or
270 (g) foreign matter.
- 271 (2) "Advertise" or "advertising" means information provided by a person in any medium:
272 (a) to the public; and
273 (b) that is not age restricted to an individual who is at least 21 years old.
- 274 [(2)] (3) "Advisory board" means the Medical Cannabis Policy Advisory Board created in
275 Section 26B-1-435.
- 276 [(3)] (4) (a) "Artificially derived cannabinoid" means a chemical substance that is created
277 by a chemical reaction that changes the molecular structure of any chemical
278 substance derived from the cannabis plant.
- 279 (b) "Artificially derived cannabinoid" does not include:
280 (i) a naturally occurring chemical substance that is separated from the cannabis plant
281 by a chemical or mechanical extraction process; or
282 (ii) a cannabinoid that is produced by decarboxylation from a naturally occurring
283 cannabinoid acid without the use of a chemical catalyst.
- 284 [(4)] (5) "Cannabis Research Review Board" means the Cannabis Research Review Board
285 created in Section 26B-1-420.
- 286 [(5)] (6) "Cannabis" means the same as that term is defined in Section 26B-4-201.
- 287 [(6)] (7) "Cannabis concentrate" means:
288 (a) the product of any chemical or physical process applied to naturally occurring
289 biomass that concentrates or isolates the cannabinoids contained in the biomass; and
290 (b) any amount of a natural cannabinoid or artificially derived cannabinoid in an
291 artificially derived cannabinoid's purified state.
- 292 [(7)] (8) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not
293 intended to be sold as a cannabis plant product.
- 294 [(8)] (9) "Cannabis cultivation facility" means a person that:
295 (a) possesses cannabis;
296 (b) grows or intends to grow cannabis; and
297 (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis
298 processing facility, or a medical cannabis research licensee.
- 299 [(9)] (10) "Cannabis cultivation facility agent" means an individual who:

holds a valid cannabis production establishment agent registration card with a cannabis cultivation facility designation.

~~[(10)]~~ (11) "Cannabis derivative product" means a product made using cannabis concentrate.

~~[(11)]~~ (12) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

~~[(12)]~~ (13) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

~~[(13)]~~ (14) "Cannabis processing facility agent" means an individual who:

holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.

~~[(14)]~~ (15) "Cannabis product" means the same as that term is defined in Section 26B-4-201.

~~[(15)]~~ (16) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

~~[(16)]~~ (17) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

~~[(17)]~~ (18) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

~~[(18)]~~ (19) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

~~[(19)]~~ (20) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

~~[(20)]~~ (21) "Delivery address" means:

(a) for a medical cannabis cardholder who is not a facility, the medical cannabis

334 cardholder's home address; or

335 (b) for a medical cannabis cardholder that is a facility, the facility's address.

336 [(21)] (22) "Department" means the Department of Agriculture and Food.

337 [(22)] (23) "Family member" means a parent, step-parent, spouse, child, sibling,

338 step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law,

339 brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

340 [(23)] (24) "Home delivery medical cannabis pharmacy" means a medical cannabis

341 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver

342 medical cannabis shipments to a delivery address to fulfill electronic orders that the state

343 central patient portal facilitates.

344 [(24)] (25) (a) "Independent cannabis testing laboratory" means a person that:

345 (i) conducts a chemical or other analysis of cannabis or a cannabis product; or

346 (ii) acquires, possesses, and transports cannabis or a cannabis product with the intent

347 to conduct a chemical or other analysis of the cannabis or cannabis product.

348 (b) "Independent cannabis testing laboratory" includes a laboratory that the department

349 or a research university operates in accordance with Subsection 4-41a-201(14).

350 [(25)] (26) "Independent cannabis testing laboratory agent" means an individual who:

351 holds a valid cannabis production establishment agent registration card with an independent

352 cannabis testing laboratory designation.

353 [(26)] (27) "Inventory control system" means a system described in Section 4-41a-103.

354 [(27)] (28) "Licensing board" or "board" means the Cannabis Production Establishment

355 Licensing Advisory Board created in Section 4-41a-201.1.

356 [(28)] (29) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.

357 [(29)] (30) "Medical cannabis card" means the same as that term is defined in Section

358 26B-4-201.

359 [(30)] (31) "Medical cannabis courier" means a courier that:

360 (a) the department licenses in accordance with Section 4-41a-1201; and

361 (b) contracts with a home delivery medical cannabis pharmacy to deliver medical

362 cannabis shipments to fulfill electronic orders that the state central patient portal

363 facilitates.

364 [(31)] (32) "Medical cannabis courier agent" means an individual who:

365 (a) is an employee of a medical cannabis courier; and

366 (b) who holds a valid medical cannabis courier agent registration card.

367 [(32)] (33) "Medical cannabis pharmacy" means the same as that term is defined in Section

368 26B-4-201.

369 ~~[(33)]~~ (34) "Medical cannabis pharmacy agent" means the same as that term is defined in

370 Section 26B-4-201.

371 ~~[(34)]~~ (35) "Medical cannabis research license" means a license that the department issues to

372 a research university for the purpose of obtaining and possessing medical cannabis for

373 academic research.

374 ~~[(35)]~~ (36) "Medical cannabis research licensee" means a research university that the

375 department licenses to obtain and possess medical cannabis for academic research, in

376 accordance with Section 4-41a-901.

377 ~~[(36)]~~ (37) "Medical cannabis shipment" means a shipment of medical cannabis or a medical

378 cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis

379 courier delivers to a delivery address to fulfill an electronic medical cannabis order that

380 the state central patient portal facilitates.

381 ~~[(37)]~~ (38) "Medical cannabis treatment" means the same as that term is defined in Section

382 26B-4-201.

383 ~~[(38)]~~ (39) "Medicinal dosage form" means the same as that term is defined in Section

384 26B-4-201.

385 ~~[(39)]~~ (40) "Pharmacy medical provider" means the same as that term is defined in Section

386 26B-4-201.

387 ~~[(40)]~~ (41) "Qualified medical provider" means the same as that term is defined in Section

388 26B-4-201.

389 ~~[(41)]~~ (42) "Qualified Production Enterprise Fund" means the fund created in Section

390 4-41a-104.

391 ~~[(42)]~~ (43) "Recommending medical provider" means the same as that term is defined in

392 Section 26B-4-201.

393 ~~[(43)]~~ (44) "Research university" means the same as that term is defined in Section

394 53B-7-702 and a private, nonprofit college or university in the state that:

395 (a) is accredited by the Northwest Commission on Colleges and Universities;

396 (b) grants doctoral degrees; and

397 (c) has a laboratory containing or a program researching a schedule I controlled

398 substance described in Section 58-37-4.

399 ~~[(44)]~~ (45) "State electronic verification system" means the system described in Section

400 26B-4-202.

401 (46) "Targeted marketing" means the promotion by a medical cannabis pharmacy of a

medical cannabis product, medical cannabis brand, or a medical cannabis device using any of the following methods:

(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information from the medical cannabis pharmacy;

(b) an in-person marketing event that is:

(i) held inside a medical cannabis pharmacy; and

(ii) in an area where only a medical cannabis cardholder may access the event; or

(c) other marketing material that is physically available or digitally displayed in:

(i) a medical cannabis pharmacy; and

(ii) an area where only a medical cannabis cardholder has access.

[(45)] (47) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

[(46)] (48) "THC analog" means the same as that term is defined in Section 4-41-102.

[(47)] (49) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

[(48)] (50) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 2. Section **4-41a-1001** is amended to read:

4-41a-1001 (Effective 05/01/24). Medical cannabis pharmacy -- License -- Eligibility.

(1) A person may not operate as a medical cannabis pharmacy without a license that the department issues under this part.

(2) (a) (i) Subject to Subsections (4) and (5) and to Section 4-41a-1005, the department shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) for a publicly traded company, has a financial or voting interest of 10% or greater in the proposed medical cannabis pharmacy;

- 436 (B) for a privately held company, a financial or voting interest in the proposed
437 medical cannabis pharmacy; or
- 438 (C) has the power to direct or cause the management or control of a proposed
439 medical cannabis pharmacy;
- 440 (iii) for each application that the applicant submits to the department, a statement
441 from the applicant that the applicant will obtain and maintain:
- 442 (A) a performance bond in the amount of \$100,000 issued by a surety authorized
443 to transact surety business in the state; or
- 444 (B) a liquid cash account in the amount of \$100,000 with a financial institution;
- 445 (iv) an operating plan that:
- 446 (A) complies with Section 4-41a-1004;
- 447 (B) includes operating procedures to comply with the operating requirements for a
448 medical cannabis pharmacy described in this part and with a relevant municipal
449 or county law that is consistent with Section 4-41a-1106; and
- 450 (C) the department approves;
- 451 (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the
452 department sets in accordance with Section 63J-1-504; and
- 453 (vi) a description of any investigation or adverse action taken by any licensing
454 jurisdiction, government agency, law enforcement agency, or court in any state for
455 any violation or detrimental conduct in relation to any of the applicant's
456 cannabis-related operations or businesses.
- 457 (c) (i) A person may not locate a medical cannabis pharmacy:
- 458 (A) within 200 feet of a community location; or
- 459 (B) in or within 600 feet of a district that the relevant municipality or county has
460 zoned as primarily residential.
- 461 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
462 from the nearest entrance to the medical cannabis pharmacy establishment by
463 following the shortest route of ordinary pedestrian travel to the property boundary
464 of the community location or residential area.
- 465 (iii) The department may grant a waiver to reduce the proximity requirements in
466 Subsection (2)(c)(i) by up to 20% if the department determines that it is not
467 reasonably feasible for the applicant to [site] cite the proposed medical cannabis
468 pharmacy without the waiver.
- 469 (iv) An applicant for a license under this section shall provide evidence of

- 470 compliance with the proximity requirements described in Subsection (2)(c)(i).
- 471 (d) The department may not issue a license to an eligible applicant that the department
472 has selected to receive a license until the selected eligible applicant complies with the
473 bond or liquid cash requirement described in Subsection (2)(b)(iii).
- 474 (e) If the department receives more than one application for a medical cannabis
475 pharmacy within the same city or town, the department shall consult with the local
476 land use authority before approving any of the applications pertaining to that city or
477 town.
- 478 (3) If the department selects an applicant for a medical cannabis pharmacy license under
479 this section, the department shall:
- 480 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
481 4-41a-104(5), the department sets in accordance with Section 63J-1-504;
- 482 (b) notify the Department of Public Safety of the license approval and the names of each
483 individual described in Subsection (2)(b)(ii); and
- 484 (c) charge the licensee a fee in an amount that, subject to Subsection 4-41a-104(5), the
485 department sets in accordance with Section 63J-1-504, for any change in location,
486 ownership, or company structure.
- 487 (4) The department may not issue a license to operate a medical cannabis pharmacy to an
488 applicant if an individual described in Subsection (2)(b)(ii):
- 489 (a) has been convicted under state or federal law of:
- 490 (i) a felony; or
- 491 (ii) after December 3, 2018, a misdemeanor for drug distribution;
- 492 (b) is younger than 21 years old; or
- 493 (c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.
- 494 (5) (a) If an applicant for a medical cannabis pharmacy license under this section holds
495 another license under this chapter, the department may not give preference to the
496 applicant based on the applicant's status as a holder of the license.
- 497 (b) If an applicant for a medical cannabis pharmacy license under this section holds a
498 license to operate a cannabis cultivation facility under this section, the department
499 may give consideration to the applicant's status as a holder of the license if:
- 500 (i) the applicant demonstrates that a decrease in costs to patients is more likely to
501 result from the applicant's vertical integration than from a more competitive
502 marketplace; and
- 503 (ii) the department finds multiple other factors, in addition to the existing license, that

- 504 support granting the new license.
- 505 (6) ~~[(a)]~~ The department may revoke a license under this part:
- 506 ~~[(i)]~~ (a) if the medical cannabis pharmacy does not begin operations within one year after
- 507 the day on which the department issues an announcement of the department's intent
- 508 to award a license to the medical cannabis pharmacy;
- 509 ~~[(ii)]~~ (b) after the third the same violation of this chapter in any of the licensee's licensed
- 510 cannabis production establishments or medical cannabis pharmacies;
- 511 ~~[(iii)]~~ (c) if an individual described in Subsection (2)(b)(ii) is convicted, while the license
- 512 is active, under state or federal law of:
- 513 ~~[(A)]~~ (i) a felony; or
- 514 ~~[(B)]~~ (ii) after December 3, 2018, a misdemeanor for drug distribution;
- 515 ~~[(iv)]~~ (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi)
- 516 at the time of application, or fails to supplement the information described in
- 517 Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the
- 518 submission of the application within 14 calendar days after the licensee receives
- 519 notice of the investigation or adverse action;
- 520 ~~[(v)]~~ (e) if the medical cannabis pharmacy demonstrates a willful or reckless disregard
- 521 for the requirements of this chapter or the rules the department makes in accordance
- 522 with this chapter; or
- 523 ~~[(vi)]~~ (f) if, after a change of ownership described in Subsection (11)(c), the department
- 524 determines that the medical cannabis pharmacy no longer meets the minimum
- 525 standards for licensure and operation of the medical cannabis pharmacy described in
- 526 this chapter.
- 527 ~~[(b) The department shall rescind a notice of an intent to issue a license under this part~~
- 528 ~~to an applicant or revoke a license issued under this part if the associated medical~~
- 529 ~~cannabis pharmacy does not begin operation on or before June 1, 2021.]~~
- 530 (7) (a) A person who receives a medical cannabis pharmacy license under this chapter, if
- 531 the municipality or county where the licensed medical cannabis pharmacy will be
- 532 located requires a local land use permit, shall submit to the department a copy of the
- 533 licensee's approved application for the land use permit within 120 days after the day
- 534 on which the department issues the license.
- 535 (b) If a licensee fails to submit to the department a copy the licensee's approved land use
- 536 permit application in accordance with Subsection (7)(a), the department may revoke
- 537 the licensee's license.

- (8) The department shall deposit the proceeds of a fee imposed by this section into the Qualified Production Enterprise Fund.
- (9) The department shall begin accepting applications under this part on or before March 1, 2020.
- (10) (a) The department's authority to issue a license under this section is plenary and is not subject to review.
- (b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:
- (i) Title 63G, Chapter 6a, Part 16, Protests; or
- (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.
- (11) (a) A medical cannabis pharmacy license is not transferrable or assignable.
- (b) A medical cannabis pharmacy shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis pharmacy.
- (c) If the ownership of a medical cannabis pharmacy changes by 50% or more:
- (i) concurrent with the report described in Subsection (11)(b), the medical cannabis pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);
- (ii) within 30 days of the submission of the application, the department shall:
- (A) conduct an application review; and
- (B) award a license to the medical cannabis pharmacy for the remainder of the term of the medical cannabis pharmacy's license before the ownership change if the medical cannabis pharmacy meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter; and
- (iii) if the department approves the license application, notwithstanding Subsection (3), the medical cannabis pharmacy shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.
- Section 3. Section **4-41a-1102** is amended to read:
- 4-41a-1102 (Effective 05/01/24). Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.**
- (1) (a) A medical cannabis pharmacy may not sell a product other than:
- (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired

- 572 from another medical cannabis pharmacy or a cannabis processing facility that is
573 licensed under Section 4-41a-201;
- 574 (ii) a cannabis product in a medicinal dosage form that the medical cannabis
575 pharmacy acquired from another medical cannabis pharmacy or a cannabis
576 processing facility that is licensed under Section 4-41a-201;
- 577 (iii) a medical cannabis device; or
578 (iv) educational material related to the medical use of cannabis.
- 579 (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an
580 individual with:
- 581 (i) (A) a medical cannabis card; or
582 (B) a Department of Health and Human Services registration described in
583 Subsection 26B-4-213(10); and
584 (ii) a corresponding government issued photo identification.
- 585 (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a
586 cannabis-based drug that the United States Food and Drug Administration has
587 approved.
- 588 (d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a
589 medical cannabis device or medical cannabis product to an individual described in
590 Subsection 26B-4-213(2)(a)(i)(B) or to a minor described in Subsection 26B-4-213
591 (2)(c) unless the individual or minor has the approval of the Compassionate Use
592 Board in accordance with Subsection 26B-1-421(5).
- 593 (2) A medical cannabis pharmacy:
- 594 (a) may dispense to a medical cannabis cardholder, in any one 28-day period, up to the
595 legal dosage limit of:
- 596 (i) unprocessed cannabis that:
- 597 (A) is in a medicinal dosage form; and
598 (B) carries a label clearly displaying the amount of tetrahydrocannabinol and
599 cannabidiol in the cannabis; and
600 (ii) a cannabis product that is in a medicinal dosage form; and
601 (b) may not dispense:
- 602 (i) more medical cannabis than described in Subsection (2)(a); or
603 (ii) any medical cannabis to an individual whose recommending medical provider did
604 not recommend directions of use and dosing guidelines, until the individual
605 consults with the pharmacy medical provider in accordance with Subsection

- 26B-4-231(5)[~~any medical cannabis~~].
- (3) (a) A medical cannabis pharmacy shall:
- (i) (A) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of medical cannabis described in Subsection (2); and
 - (B) if the verification in Subsection (3)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2), decline the sale, and notify the recommending medical provider who made the underlying recommendation;
 - (ii) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;
 - (iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews each medical cannabis transaction before dispensing the medical cannabis to the cardholder in accordance with pharmacy practice standards;
 - (iv) package any medical cannabis that is in a container that:
 - (A) complies with Subsection 4-41a-602(1)(b) or, if applicable, provisions related to a container for unprocessed cannabis flower in the definition of "medicinal dosage form" in Section 26B-4-201;
 - (B) is tamper-resistant and tamper-evident; and
 - (C) provides an opaque bag or box for the medical cannabis cardholder's use in transporting the container in public;
 - (v) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption; and
 - (vi) beginning January 1, 2024, for a cannabis product that is cannabis flower, vaporizer cartridges, or concentrate, provide the product's terpene profiles collected under Subsection 4-41a-602(4) at or before the point of sale.
- (b) A medical cannabis cardholder transporting or possessing the container described in Subsection (3)(a)(iv) in public shall keep the container within the opaque bag or box that the medical cannabis pharmacist provides.
- (4) (a) Except as provided in Subsection (4)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(5) (a) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).

(b) A medical cannabis pharmacy may give, at no cost, educational material related to the medical use of cannabis.

(6) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this chapter or Title 26B, Utah Health and Human Services Code.

Section 4. Section **4-41a-1202** is amended to read:

4-41a-1202 (Effective 05/01/24). Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the state central patient portal facilitates, including rules regarding the safe and controlled delivery of medical cannabis shipments.

(2) A person may not operate as a medical cannabis courier without a license that the department issues under this section.

(3) (a) Subject to Subsections (5) and (6), the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) the name and address of an individual who:

(A) has a financial or voting interest of 10% or greater in the proposed medical cannabis courier; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this chapter; and

(iii) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

- (4) If the department determines that an applicant is eligible for a license under this section, the department shall:
- (a) charge the applicant an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
 - (b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (3)(b)(i).
- (5) The department may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection (3)(b)(i):
- (a) has been convicted under state or federal law of:
 - (i) a felony; or
 - (ii) after September 23, 2019, a misdemeanor for drug distribution; or
 - (b) is younger than 21 years old.
- (6) The department may revoke a license under this part if:
- (a) the medical cannabis courier does not begin operations within one year after the day on which the department issues the initial license;
 - (b) the medical cannabis courier makes the same violation of this chapter three times;
 - (c) an individual described in Subsection (3)(b)(i) is convicted, while the license is active, under state or federal law of:
 - (i) a felony; or
 - (ii) after September 23, 2019, a misdemeanor for drug distribution; or
 - (d) after a change of ownership described in Subsection (15)(c), the department determines that the medical cannabis courier no longer meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter.
- (7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Production Enterprise Fund.
- ~~[(8) The department shall begin accepting applications under this section on or before July 1, 2020.]~~
- ~~[(9)]~~ (8) The department's authority to issue a license under this section is plenary and is not subject to review.
- ~~[(10)]~~ (9) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of 10% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:
- (a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

~~[(11)]~~ (10) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection ~~[(10)]~~ (9) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection ~~[(10)]~~ (9) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

~~[(12)]~~ (11) The department shall:

(a) assess an individual who submits fingerprints under Subsection ~~[(10)]~~ (9) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection ~~[(12)(a)]~~ (11)(a) to the Bureau of Criminal Identification.

~~[(13)]~~ (12) The department shall renew a license under this section every year if, at the time of renewal:

(a) the licensee meets the requirements of this section; and

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

~~[(14)]~~ (13) A person applying for a medical cannabis courier license shall submit to the

department a proposed operating plan that complies with this section and that includes:

- (a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;
- (b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;
- (c) the medical cannabis courier's employee training standards;
- (d) a security plan; and
- (e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

~~[(15)]~~ (14) (a) A medical cannabis courier license is not ~~[transferrable]~~ transferable or assignable.

(b) A medical cannabis courier shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis courier.

(c) If the ownership of a medical cannabis courier changes by 50% or more:

- (i) concurrent with the report described in Subsection ~~[(15)(b)]~~ (14)(b), the medical cannabis courier shall submit a new application described in Subsection (3)(b);
- (ii) within 30 days of the submission of the application, the department shall:
 - (A) conduct an application review; and
 - (B) award a license to the medical cannabis courier for the remainder of the term of the medical cannabis courier's license before the ownership change if the medical cannabis courier meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter; and
- (iii) if the department approves the license application, notwithstanding Subsection (4), the medical cannabis courier shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

~~[(16)]~~ (15) (a) Except as provided in Subsection ~~[(16)(b)]~~ (15)(b), a person may not advertise regarding the transportation of medical cannabis.

(b) Notwithstanding Subsection ~~[(15)(a)]~~ (14)(a) and subject to Section 4-41a-109, a licensed home delivery medical cannabis pharmacy or a licensed medical cannabis courier may advertise:

- (i) a green cross;

- (ii) the pharmacy's or courier's name and logo; and
- (iii) that the pharmacy or courier is licensed to transport medical cannabis shipments.

Section 5. Section **17-43-203** is amended to read:

17-43-203 (Effective 05/01/24). Definition of "public funds" -- Responsibility for oversight of public funds -- Substance abuse programs and services.

(1) As used in this section, "public funds":

(a) means:

(i) federal money received from the [~~department or the Department of Health~~]
Department of Health and Human Services; and

(ii) state money appropriated by the Legislature to the [~~department, the Department of Health~~]
Department of Health and Human Services, a county governing body,
or a local substance abuse authority for the purposes of providing substance abuse
programs or services; and

(b) includes that federal and state money:

(i) even after the money has been transferred by a local substance abuse authority to a
private provider under an annual or otherwise ongoing contract to provide
comprehensive substance abuse programs or services for the local substance abuse
authority; and

(ii) while in the possession of the private provider.

(2) Each local substance abuse authority is responsible for oversight of all public funds
received by it, to determine that those public funds are utilized in accordance with
federal and state law, the rules and policies of the [~~department and the Department of
Health~~]
Department of Health and Human Services, and the provisions of any contract
between the local substance abuse authority and the [~~department, the Department of
Health,~~]
Department of Health and Human Services or a private provider. That oversight
includes requiring that neither the contract provider, as described in Subsection (1), nor
any of its employees:

(a) violate any applicable federal or state criminal law;

(b) knowingly violate any applicable rule or policy of the [~~department or Department of
Health~~]
Department of Health and Human Services, or knowingly violate any
provision of contract between the local substance abuse authority and the [
~~department, the Department of Health,~~]
Department of Health and Human Services or
the private provider;

(c) knowingly keep any false account or make any false entry or erasure in any account

- 810 of or relating to the public funds;
- 811 (d) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating to
- 812 public funds;
- 813 (e) fail to ensure competent oversight for lawful disbursement of public funds;
- 814 (f) appropriate public funds for an unlawful use or for a use that is not in compliance
- 815 with contract provisions; or
- 816 (g) knowingly or intentionally use public funds unlawfully or in violation of a
- 817 governmental contract provision, or in violation of state policy.

818 (3) Each local substance abuse authority that knows or reasonably should know of any of

819 the circumstances described in Subsection (2), and that fails or refuses to take timely

820 corrective action in good faith shall, in addition to any other penalties provided by law,

821 be required to make full and complete repayment to the state of all public funds

822 improperly used or expended.

823 (4) Any public funds required to be repaid to the state by a local substance abuse authority

824 under Subsection (3), based upon the actions or failure of the contract provider, may be

825 recovered by the local substance abuse authority from its contract provider, in addition

826 to the local substance abuse authority's costs and attorney's fees.

827 Section 6. Section **17-43-301** is amended to read:

828 **17-43-301 (Effective 05/01/24). Local mental health authorities -- Responsibilities.**

829 (1) As used in this section:

- 830 (a) "Assisted outpatient treatment" means the same as that term is defined in Section
- 831 26B-5-301.
- 832 (b) "Crisis worker" means the same as that term is defined in Section 26B-5-610.
- 833 (c) "Local mental health crisis line" means the same as that term is defined in Section
- 834 26B-5-610.
- 835 (d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.
- 836 (e) "Public funds" means the same as that term is defined in Section 17-43-303.
- 837 (f) "Statewide mental health crisis line" means the same as that term is defined in
- 838 Section 26B-5-610.

839 (2) (a) (i) In each county operating under a county executive-council form of

840 government under Section 17-52a-203, the county legislative body is the local

841 mental health authority, provided however that any contract for plan services shall

842 be administered by the county executive.

843 (ii) In each county operating under a council-manager form of government under

- 844 Section 17-52a-204, the county manager is the local mental health authority.
- 845 (iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the
- 846 county legislative body is the local mental health authority.
- 847 (b) Within legislative appropriations and county matching funds required by this section,
- 848 under the direction of the division, each local mental health authority shall:
- 849 (i) provide mental health services to individuals within the county; and
- 850 (ii) cooperate with efforts of the division to promote integrated programs that address
- 851 an individual's substance use, mental health, and physical healthcare needs, as
- 852 described in Section 26B-5-102.
- 853 (c) Within legislative appropriations and county matching funds required by this section,
- 854 each local mental health authority shall cooperate with the efforts of the department
- 855 to promote a system of care, as defined in Section [~~26B-1-102~~] 26B-5-101, for minors
- 856 with or at risk for complex emotional and behavioral needs, as described in Section
- 857 26B-1-202.
- 858 (3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal
- 859 Cooperation Act, two or more counties may join to:
- 860 (i) provide mental health prevention and treatment services; or
- 861 (ii) create a united local health department that combines substance use treatment
- 862 services, mental health services, and local health department services in
- 863 accordance with Subsection (4).
- 864 (b) The legislative bodies of counties joining to provide services may establish
- 865 acceptable ways of apportioning the cost of mental health services.
- 866 (c) Each agreement for joint mental health services shall:
- 867 (i) (A) designate the treasurer of one of the participating counties or another
- 868 person as the treasurer for the combined mental health authorities and as the
- 869 custodian of money available for the joint services; and
- 870 (B) provide that the designated treasurer, or other disbursing officer authorized by
- 871 the treasurer, may make payments from the money available for the joint
- 872 services upon audit of the appropriate auditing officer or officers representing
- 873 the participating counties;
- 874 (ii) provide for the appointment of an independent auditor or a county auditor of one
- 875 of the participating counties as the designated auditing officer for the combined
- 876 mental health authorities;
- 877 (iii) (A) provide for the appointment of the county or district attorney of one of the

- 878 participating counties as the designated legal officer for the combined mental
879 health authorities; and
- 880 (B) authorize the designated legal officer to request and receive the assistance of
881 the county or district attorneys of the other participating counties in defending
882 or prosecuting actions within their counties relating to the combined mental
883 health authorities; and
- 884 (iv) provide for the adoption of management, clinical, financial, procurement,
885 personnel, and administrative policies as already established by one of the
886 participating counties or as approved by the legislative body of each participating
887 county or interlocal board.
- 888 (d) An agreement for joint mental health services may provide for:
- 889 (i) joint operation of services and facilities or for operation of services and facilities
890 under contract by one participating local mental health authority for other
891 participating local mental health authorities; and
- 892 (ii) allocation of appointments of members of the mental health advisory council
893 between or among participating counties.
- 894 (4) A county governing body may elect to combine the local mental health authority with
895 the local substance abuse authority created in Part 2, Local Substance Abuse Authorities,
896 and the local health department created in Title 26A, Chapter 1, Part 1, Local Health
897 Department Act, to create a united local health department under Section 26A-1-105.5.
898 A local mental health authority that joins with a united local health department shall
899 comply with this part.
- 900 (5) (a) Each local mental health authority is accountable to the department and the state
901 with regard to the use of state and federal funds received from those departments for
902 mental health services, regardless of whether the services are provided by a private
903 contract provider.
- 904 (b) Each local mental health authority shall comply, and require compliance by its
905 contract provider, with all directives issued by the department regarding the use and
906 expenditure of state and federal funds received from those departments for the
907 purpose of providing mental health programs and services. The department shall
908 ensure that those directives are not duplicative or conflicting, and shall consult and
909 coordinate with local mental health authorities with regard to programs and services.
- 910 (6) (a) Each local mental health authority shall:
- 911 (i) review and evaluate mental health needs and services, including mental health

- 912 needs and services for:
- 913 (A) an individual incarcerated in a county jail or other county correctional facility;
- 914 and
- 915 (B) an individual who is a resident of the county and who is court ordered to
- 916 receive assisted outpatient treatment under Section 26B-5-351;
- 917 (ii) in accordance with Subsection (6)(b), annually prepare and submit to the division
- 918 a plan approved by the county legislative body for mental health funding and
- 919 service delivery, either directly by the local mental health authority or by contract;
- 920 (iii) establish and maintain, either directly or by contract, programs licensed under
- 921 Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;
- 922 (iv) appoint, directly or by contract, a full-time or part-time director for mental health
- 923 programs and prescribe the director's duties;
- 924 (v) provide input and comment on new and revised rules established by the division;
- 925 (vi) establish and require contract providers to establish administrative, clinical,
- 926 personnel, financial, procurement, and management policies regarding mental
- 927 health services and facilities, in accordance with the rules of the division, and state
- 928 and federal law;
- 929 (vii) establish mechanisms allowing for direct citizen input;
- 930 (viii) annually contract with the division to provide mental health programs and
- 931 services in accordance with the provisions of Title 26B, Chapter 5, Health Care -
- 932 Substance Use and Mental Health;
- 933 (ix) comply with all applicable state and federal statutes, policies, audit requirements,
- 934 contract requirements, and any directives resulting from those audits and contract
- 935 requirements;
- 936 (x) provide funding equal to at least 20% of the state funds that it receives to fund
- 937 services described in the plan;
- 938 (xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
- 939 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special
- 940 Districts, and Title 51, Chapter 2a, Accounting Reports from Political
- 941 Subdivisions, Interlocal Organizations, and Other Local Entities Act; and
- 942 (xii) take and retain physical custody of minors committed to the physical custody of
- 943 local mental health authorities by a judicial proceeding under Title 26B, Chapter
- 944 5, Part 4, Commitment of Persons Under Age 18.
- 945 (b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and

children, which shall include:

- (i) inpatient care and services;
- (ii) residential care and services;
- (iii) outpatient care and services;
- (iv) 24-hour crisis care and services;
- (v) psychotropic medication management;
- (vi) psychosocial rehabilitation, including vocational training and skills development;
- (vii) case management;
- (viii) community supports, including in-home services, housing, family support services, and respite services;
- (ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and
- (x) services to persons incarcerated in a county jail or other county correctional facility.

(7) (a) If a local mental health authority provides for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall:

- (i) collaborate with the statewide mental health crisis line described in Section 26B-5-610;
- (ii) ensure that each individual who answers calls to the local mental health crisis line:
 - (A) is a mental health therapist or a crisis worker; and
 - (B) meets the standards of care and practice established by the Division of Integrated Healthcare, in accordance with Section 26B-5-610; and
- (iii) ensure that when necessary, based on the local mental health crisis line's capacity, calls are immediately routed to the statewide mental health crisis line to ensure that when an individual calls the local mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line, a mental health therapist or a crisis worker answers the call without the caller first:
 - (A) waiting on hold; or
 - (B) being screened by an individual other than a mental health therapist or crisis worker.

(b) If a local mental health authority does not provide for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv),

the local mental health authority shall use the statewide mental health crisis line as a local crisis line resource.

(8) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:

(i) the division;

(ii) the local mental health authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide mental health services under an agreement under Subsection (3), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection (5)(b).

(9) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(10) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

(11) A local mental health authority shall provide assisted outpatient treatment services, as described in Section 26B-5-350, to a resident of the county who has been ordered under Section 26B-5-351 to receive assisted outpatient treatment.

Section 7. Section **26A-1-112** is amended to read:

26A-1-112 (Effective 05/01/24). Appointment of personnel.

- (1) All local health department personnel shall be hired by the local health officer or the local health officer's designee in accordance with the merit system, personnel policies, and compensation plans approved by the board and ratified pursuant to Subsection (2). The personnel shall have qualifications for their positions equivalent to those approved for comparable positions in the Departments of [Health] Health and Human Services and Environmental Quality.
- (2) The merit system, personnel policies, and compensation plans approved under Subsection (1) shall be ratified by all the counties participating in the local health department.
- (3) Subject to the local merit system, employees of the local health department may be removed by the local health officer for cause. A hearing shall be granted if requested by the employee.

Section 8. Section **26A-1-113** is amended to read:

26A-1-113 (Effective 05/01/24). Right of entry to regulated premises by representatives for inspection.

- (1) Upon presenting proper identification, authorized representatives of local health departments may enter upon the premises of properties regulated by local health departments to perform routine inspections to insure compliance with rules, standards, regulations, and ordinances as adopted by the Departments of [Health] Health and Human Services and Environmental Quality, local boards of health, county or municipal governing bodies, or administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act.
- (2) Section 58-56-9 does not apply to health inspectors acting under this section.
- (3) This section does not authorize local health departments to inspect private dwellings.

Section 9. Section **26A-1-120** is amended to read:

26A-1-120 (Effective 05/01/24). County attorney or district attorney to represent and advise department, board, officers, and employees.

- (1) Except as otherwise provided in this section, the county attorney of the county in which the headquarters of the local health department is located shall serve as legal advisor to the local health department in all civil matters involving the local health department.
- (2) The county attorney of the county where a civil claim arises shall bring any action requested by a local health department to abate a condition that exists in violation of, or to restrain or enjoin any action which is in violation of the public health laws and rules of the Departments of [Health] Health and Human Services and Environmental Quality,

the standards, regulations, orders, and notices, of a local health department, and other laws, ordinances, and rules pertaining to health and sanitary matters.

- (3) (a) The district attorney or county attorney having criminal jurisdiction shall prosecute criminal violations of the public health laws and rules of the Departments of [Health] Health and Human Services and Environmental Quality, the standards, regulations, orders, and notices, of a local health department, and other laws and rules pertaining to health and sanitary matters.
- (b) Violations of local ordinances relating to public health matters shall be prosecuted by the prosecuting attorney of the jurisdiction enacting the ordinance.

- (4) The county attorney of a county where an action arises shall, if requested by the county attorney designated in Subsection (1):

- (a) act as legal adviser to the local health department and the board with respect to the action; and
- (b) defend all actions and proceedings brought in that county against the local health department, the board, or the officers and employees of the local health department.

Section 10. Section **26B-1-202** is amended to read:

26B-1-202 (Effective 05/01/24). Department authority and duties.

The department may, subject to applicable restrictions in state law and in addition to all other authority and responsibility granted to the department by law:

- (1) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law, as the department may consider necessary or desirable for providing health and social services to the people of this state;
- (2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;
- (3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;
- (4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;
- (5) establish eligibility standards for the department's programs, not inconsistent with state or federal law or regulations;
- (6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;
- (7) set and collect fees for the department's services;

- 1082 (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or
1083 limited by law;
- 1084 (9) acquire, manage, and dispose of any real or personal property needed or owned by the
1085 department, not inconsistent with state law;
- 1086 (10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the
1087 proceeds thereof, may be credited to the program designated by the donor, and may be
1088 used for the purposes requested by the donor, as long as the request conforms to state
1089 and federal policy; all donated funds shall be considered private, nonlapsing funds and
1090 may be invested under guidelines established by the state treasurer;
- 1091 (11) accept and employ volunteer labor or services; the department is authorized to
1092 reimburse volunteers for necessary expenses, when the department considers that
1093 reimbursement to be appropriate;
- 1094 (12) carry out the responsibility assigned in the workforce services plan by the State
1095 Workforce Development Board;
- 1096 (13) carry out the responsibility assigned by [~~Section 62A-5a-105~~] Section 26B-1-430 with
1097 respect to coordination of services for students with a disability;
- 1098 (14) provide training and educational opportunities for the department's staff;
- 1099 (15) collect child support payments and any other money due to the department;
- 1100 (16) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents
1101 whose child lives out of the home in a department licensed or certified setting;
- 1102 (17) establish policy and procedures, within appropriations authorized by the Legislature, in
1103 cases where the Division of Child and Family Services or the [~~Division of Juvenile~~
1104 ~~Justice Services~~] Division of Juvenile Justice and Youth Services is given custody of a
1105 minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is
1106 ordered to prepare an attainment plan for a minor found not competent to proceed under
1107 Section 80-6-403, including:
- 1108 (a) designation of interagency teams for each juvenile court district in the state;
- 1109 (b) delineation of assessment criteria and procedures;
- 1110 (c) minimum requirements, and timeframes, for the development and implementation of
1111 a collaborative service plan for each minor placed in department custody; and
- 1112 (d) provisions for submittal of the plan and periodic progress reports to the court;
- 1113 (18) carry out the responsibilities assigned to the department by statute;
- 1114 (19) examine and audit the expenditures of any public funds provided to a local substance
1115 abuse authority, a local mental health authority, a local area agency on aging, and any

person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to a local authority, an area agency, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, the department may take steps necessary to ensure continuity of services. For purposes of this Subsection (19) "public funds" means the same as that term is defined in Section ~~[62A-15-102]~~ 26B-5-101;

(20) in accordance with Subsection 26B-2-104(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

(21) within legislative appropriations, promote and develop a system of care and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions;

(22) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- 1150 (a) under this title;
- 1151 (b) by the department; or
- 1152 (c) by an agency or division within the department;
- 1153 (23) enter into cooperative agreements with the Department of Environmental Quality to
- 1154 delineate specific responsibilities to assure that assessment and management of risk to
- 1155 human health from the environment are properly administered;
- 1156 (24) consult with the Department of Environmental Quality and enter into cooperative
- 1157 agreements, as needed, to ensure efficient use of resources and effective response to
- 1158 potential health and safety threats from the environment, and to prevent gaps in
- 1159 protection from potential risks from the environment to specific individuals or
- 1160 population groups;
- 1161 (25) to the extent authorized under state law or required by federal law, promote and protect
- 1162 the health and wellness of the people within the state;
- 1163 (26) establish, maintain, and enforce rules authorized under state law or required by federal
- 1164 law to promote and protect the public health or to prevent disease and illness;
- 1165 (27) investigate the causes of epidemic, infectious, communicable, and other diseases
- 1166 affecting the public health;
- 1167 (28) provide for the detection and reporting of communicable, infectious, acute, chronic, or
- 1168 any other disease or health hazard which the department considers to be dangerous,
- 1169 important, or likely to affect the public health;
- 1170 (29) collect and report information on causes of injury, sickness, death, and disability and
- 1171 the risk factors that contribute to the causes of injury, sickness, death, and disability
- 1172 within the state;
- 1173 (30) collect, prepare, publish, and disseminate information to inform the public concerning
- 1174 the health and wellness of the population, specific hazards, and risks that may affect the
- 1175 health and wellness of the population and specific activities which may promote and
- 1176 protect the health and wellness of the population;
- 1177 (31) abate nuisances when necessary to eliminate sources of filth and infectious and
- 1178 communicable diseases affecting the public health;
- 1179 (32) make necessary sanitary and health investigations and inspections in cooperation with
- 1180 local health departments as to any matters affecting the public health;
- 1181 (33) establish laboratory services necessary to support public health programs and medical
- 1182 services in the state;
- 1183 (34) establish and enforce standards for laboratory services which are provided by any

laboratory in the state when the purpose of the services is to protect the public health;

(35) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(36) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services, and the Crime Victim Reparations and Assistance Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(37) investigate the causes of maternal and infant mortality;

(38) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol, and provide the Commissioner of Public Safety with monthly statistics reflecting the results of these examinations, with necessary safeguards so that information derived from the examinations is not used for a purpose other than the compilation of these statistics;

(39) establish qualifications for individuals permitted to draw blood under Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals the department finds qualified, which permits may be terminated or revoked by the department;

(40) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

(41) conduct health planning for the state;

(42) monitor the costs of health care in the state and foster price competition in the health care delivery system;

(43) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals the providers serve;

(44) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process;

- 1218 (45) coordinate with other state agencies and other organizations to implement the state
1219 plan for Alzheimer's disease and related dementia;
- 1220 (46) ensure that any training or certification required of a public official or public
1221 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G,
1222 Chapter 22, State Training and Certification Requirements, if the training or certification
1223 is required by the agency or under this [~~title, Title 26, Utah Health Code, or Title 62A,~~
1224 ~~Utah Human Services Code~~] Title 26B, Utah Health and Human Services Code;
- 1225 (47) oversee public education vision screening as described in Section 53G-9-404; and
- 1226 (48) issue code blue alerts in accordance with Title 35A, Chapter 16, Part 7, Code Blue
1227 Alert.
- 1228 Section 11. Section **26B-1-204** is amended to read:
- 1229 **26B-1-204 (Effective 05/01/24) (Superseded 07/01/24). Creation of boards,**
1230 **divisions, and offices -- Power to organize department.**
- 1231 (1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah
1232 Administrative Rulemaking Act, and not inconsistent with law for:
- 1233 (a) the administration and government of the department;
- 1234 (b) the conduct of the department's employees; and
- 1235 (c) the custody, use, and preservation of the records, papers, books, documents, and
1236 property of the department.
- 1237 (2) The following policymaking boards, councils, and committees are created within the
1238 Department of Health and Human Services:
- 1239 (a) Board of Aging and Adult Services;
- 1240 (b) Utah State Developmental Center Board;
- 1241 (c) Health Facility Committee;
- 1242 (d) State Emergency Medical Services Committee;
- 1243 (e) Air Ambulance Committee;
- 1244 (f) Health Data Committee;
- 1245 (g) Utah Health Care Workforce Financial Assistance Program Advisory Committee;
- 1246 (h) Child Care Provider Licensing Committee;
- 1247 (i) Primary Care Grant Committee;
- 1248 (j) Adult Autism Treatment Program Advisory Committee;
- 1249 (k) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and
- 1250 (l) any boards, councils, or committees that are created by statute in this title.
- 1251 (3) The following divisions are created within the Department of Health and Human

- 1252 Services:
- 1253 (a) relating to operations:
- 1254 (i) the Division of Finance and Administration;
- 1255 (ii) the Division of Licensing and Background Checks;
- 1256 (iii) the Division of Customer Experience;
- 1257 (iv) the Division of Data, Systems, and Evaluation; and
- 1258 (v) the Division of Continuous Quality and Improvement;
- 1259 (b) relating to healthcare administration:
- 1260 (i) the Division of Integrated Healthcare, which shall include responsibility for:
- 1261 (A) the state's medical assistance programs; and
- 1262 (B) behavioral health programs described in Chapter 5, Health Care - Substance
- 1263 Use and Mental Health;
- 1264 (ii) the Division of Aging and Adult Services; and
- 1265 (iii) the Division of Services for People with Disabilities;~~[-and]~~
- 1266 (c) relating to community health and well-being:
- 1267 (i) the Division of Child and Family Services;
- 1268 (ii) the Division of Family Health;
- 1269 (iii) the Division of Population Health;
- 1270 (iv) the Division of Juvenile Justice and Youth Services; and
- 1271 (v) the Office of Recovery Services~~[-]~~ ; and
- 1272 (d) relating to clinical services, the Division of Health Access.
- 1273 (4) The executive director may establish offices~~[-and bureaus]~~ to facilitate management of
- 1274 the department as required by, and in accordance with this title.
- 1275 (5) From July 1, 2022, through June 30, 2023, the executive director may adjust the
- 1276 organizational structure relating to the department, including the organization of the
- 1277 department's divisions and offices, notwithstanding the organizational structure
- 1278 described in this title.
- 1279 Section 12. Section **26B-1-204** is amended to read:
- 1280 **26B-1-204 (Effective 07/01/24). Creation of boards, divisions, and offices --**
- 1281 **Power to organize department.**
- 1282 (1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah
- 1283 Administrative Rulemaking Act, and not inconsistent with law for:
- 1284 (a) the administration and government of the department;
- 1285 (b) the conduct of the department's employees; and

- 1286 (c) the custody, use, and preservation of the records, papers, books, documents, and
1287 property of the department.
- 1288 (2) The following policymaking boards, councils, and committees are created within the
1289 Department of Health and Human Services:
- 1290 (a) Board of Aging and Adult Services;
- 1291 (b) Utah State Developmental Center Board;
- 1292 (c) Health Facility Committee;
- 1293 (d) Health Data Committee;
- 1294 (e) Utah Health Care Workforce Financial Assistance Program Advisory Committee;
- 1295 (f) Child Care Provider Licensing Committee;
- 1296 (g) Primary Care Grant Committee;
- 1297 (h) Adult Autism Treatment Program Advisory Committee;
- 1298 (i) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and
- 1299 (j) any boards, councils, or committees that are created by statute in this title.
- 1300 (3) The following divisions are created within the Department of Health and Human
1301 Services:
- 1302 (a) relating to operations:
- 1303 (i) the Division of Finance and Administration;
- 1304 (ii) the Division of Licensing and Background Checks;
- 1305 (iii) the Division of Customer Experience;
- 1306 (iv) the Division of Data, Systems, and Evaluation; and
- 1307 (v) the Division of Continuous Quality and Improvement;
- 1308 (b) relating to healthcare administration:
- 1309 (i) the Division of Integrated Healthcare, which shall include responsibility for:
- 1310 (A) the state's medical assistance programs; and
- 1311 (B) behavioral health programs described in Chapter 5, Health Care - Substance
1312 Use and Mental Health;
- 1313 (ii) the Division of Aging and Adult Services; and
- 1314 (iii) the Division of Services for People with Disabilities;[-and]
- 1315 (c) relating to community health and well-being:
- 1316 (i) the Division of Child and Family Services;
- 1317 (ii) the Division of Family Health;
- 1318 (iii) the Division of Population Health;
- 1319 (iv) the Division of Juvenile Justice and Youth Services; and

(v) the Office of Recovery Services[-] ; and

(d) relating to clinical services, the Division of Health Access.

(4) The executive director may establish offices[-and bureaus] to facilitate management of the department as required by, and in accordance with this title.

(5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in this title.

Section 13. Section **26B-1-207** is amended to read:

26B-1-207 (Effective 05/01/24). Policymaking responsibilities -- Regulations for local health departments prescribed by department -- Local standards not more stringent than federal or state standards -- Consultation with local health departments -- Committee to evaluate health policies and to review federal grants.

(1) In establishing public health policy, the department shall consult with the local health departments established under Title 26A, Chapter 1, Local Health Departments.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may prescribe by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, reasonable requirements not inconsistent with law for a local health department as defined in Section 26A-1-102.

(b) Except where specifically allowed by federal law or state statute, a local health department, as defined in Section 26A-1-102, may not establish standards or regulations that are more stringent than those established by federal law, state statute, or administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) Nothing in this Subsection (2), limits the ability of a local health department to make standards and regulations in accordance with Subsection 26A-1-121(1)(a) for:

(i) emergency rules made in accordance with Section 63G-3-304; or

(ii) items not regulated under federal law, state statute, or state administrative rule.

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

(i) "Committee" means the committee established under Subsection (3)(b).

(ii) "Exempt application" means an application for a federal grant that meets the criteria established under Subsection [(3)(e)(iii)] (3)(c)(iv).

(iii) "Expedited application" means an application for a federal grant that meets the criteria established under Subsection [(3)(e)(iv)] (3)(c)(v).

(iv) "Federal grant" means a grant from the federal government that could provide funds for local health departments to help them fulfill their duties and responsibilities.

(v) "Reviewable application" means an application for a federal grant that is not an exempt application.

(b) The department shall establish a committee consisting of:

(i) the executive director, or the executive director's designee;

(ii) two representatives of the department, appointed by the executive director; and

(iii) three representatives of local health departments, appointed by all local health departments.

(c) The committee shall:

(i) evaluate the allocation of public health resources between the department and local health departments, including whether funds allocated by contract were allocated in accordance with the formula described in Section 26A-1-116;

(ii) evaluate policies and rules that affect local health departments in accordance with Subsection (3)(g);

(iii) consider department policy and rule changes proposed by the department or local health departments;

(iv) establish criteria by which an application for a federal grant may be judged to determine whether it should be exempt from the requirements under Subsection (3)(d); and

(v) establish criteria by which an application for a federal grant may be judged to determine whether committee review under Subsection (3)(d)(i) should be delayed until after the application is submitted because the application is required to be submitted under a timetable that makes committee review before it is submitted impracticable if the submission deadline is to be met.

(d) (i) The committee shall review the goals and budget for each reviewable application:

(A) before the application is submitted, except for an expedited application; and

(B) for an expedited application, after the application is submitted but before funds from the federal grant for which the application was submitted are disbursed or encumbered.

(ii) Funds from a federal grant under a reviewable application may not be disbursed or encumbered before the goals and budget for the federal grant are established by[.]

~~[(A)]~~ a two-thirds vote of the committee, following the committee review under Subsection (3)(d)(i)~~[-or] .~~

~~[(B) if two-thirds of the committee cannot agree on the goals and budget, the chair of the health advisory council, after consultation with the committee in a manner that the committee determines.]~~

(e) An exempt application is exempt from the requirements of Subsection (3)(d).

(f) The department may use money from a federal grant to pay administrative costs incurred in implementing this Subsection (3).

(g) When evaluating a policy or rule that affects a local health department, the committee shall determine:

(i) whether the department has the authority to promulgate the policy or rule;

(ii) an estimate of the cost a local health department will bear to comply with the policy or rule;

(iii) whether there is any funding provided to a local health department to implement the policy or rule; and

(iv) whether the policy or rule is still needed.

(h) Before November 1 of each year, the department shall provide a report to the Administrative Rules Review and General Oversight Committee regarding the determinations made under Subsection (3)(g).

Section 14. Section **26B-1-237** is amended to read:

26B-1-237 (Effective 05/01/24). Office of Internal Audit.

The~~[-Utah]~~ Office of Internal Audit:

(1) may not be placed within ~~[the]~~ a division;

(2) shall be placed directly under, and report directly to, the executive director of the Department of Health and Human Services; and

(3) shall have full access to all records of the ~~[division]~~ department.

Section 15. Section **26B-1-324** is amended to read:

26B-1-324 (Effective 05/01/24). Statewide Behavioral Health Crisis Response Account -- Creation -- Administration -- Permitted uses -- Reporting.

(1) There is created a restricted account within the General Fund known as the "Statewide Behavioral Health Crisis Response Account," consisting of:

(a) money appropriated or otherwise made available by the Legislature; and

(b) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, or other persons.

- (2) (a) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division shall disburse funds in the account only for the purpose of support or implementation of services or enhancements of those services in order to rapidly, efficiently, and effectively deliver 988 services in the state.
- (b) Funds distributed from the account to county local mental health and substance abuse authorities for the provision of crisis services are not subject to the 20% county match described in Sections 17-43-201 and 17-43-301.
- (c) After consultation with the Behavioral Health Crisis Response Commission created in Section 63C-18-202, and local substance use authorities and local mental health authorities described in Sections 17-43-201 and 17-43-301, the division shall expend funds from the account on any of the following programs:
- (i) the Statewide Mental Health Crisis Line, as defined in Section 26B-5-610, including coordination with 911 emergency service, as defined in Section 69-2-102, and coordination with local substance abuse authorities as described in Section 17-43-201, and local mental health authorities, described in Section 17-43-301;
 - (ii) mobile crisis outreach teams as defined in Section 26B-5-609, distributed in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (iii) behavioral health receiving centers as defined in Section 26B-5-114;
 - (iv) stabilization services as described in Section ~~[26B-1-102]~~ 26B-5-101;
 - (v) mental health crisis services, as defined in Section 26B-5-101, provided by local substance abuse authorities as described in Section 17-43-201 and local mental health authorities described in Section 17-43-301 to provide prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis as defined in Section 26B-5-101;
 - (vi) crisis intervention training for first responders, as that term is defined in Section 78B-4-501;
 - (vii) crisis worker certification training for first responders, as that term is defined in Section 78B-4-501;
 - (viii) frontline support for the SafeUT Crisis Line; or
 - (ix) suicide prevention gatekeeper training for first responders, as that term is defined in Section 78B-4-501.
- (d) If the Legislature appropriates money to the account for a purpose described in

- 1456 Subsection (2)(c), the division shall use the appropriation for that purpose.
- 1457 (3) Subject to appropriations by the Legislature and any contributions to the account
1458 described in Subsection (1)(b), the division may expend funds in the account for
1459 administrative costs that the division incurs related to administering the account.
- 1460 (4) The division director shall submit and make available to the public a report before
1461 December of each year to the Behavioral Health Crisis Response Commission, as
1462 defined in Section 63C-18-202, the Social Services Appropriations Subcommittee, and
1463 the Legislative Management Committee that includes:
- 1464 (a) the amount of each disbursement from the account;
1465 (b) the recipient of each disbursement, the goods and services received, and a
1466 description of the project funded by the disbursement;
1467 (c) any conditions placed by the division on the disbursements from the account;
1468 (d) the anticipated expenditures from the account for the next fiscal year;
1469 (e) the amount of any unexpended funds carried forward;
1470 (f) the number of Statewide Mental Health Crisis Line calls received;
1471 (g) the progress towards accomplishing the goals of providing statewide mental health
1472 crisis service; and
1473 (h) other relevant justification for ongoing support from the account.
- 1474 (5) Notwithstanding Subsection (2)(c), allocations made to local substance use authorities
1475 and local mental health authorities for behavioral health receiving centers or mobile
1476 crisis outreach teams before the end of fiscal year 2023 shall be maintained through
1477 fiscal year 2027, subject to appropriation.
- 1478 (6) (a) As used in this Subsection (6):
1479 (i) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.
1480 (ii) "Mental health service provider" means a behavioral health receiving center or
1481 mobile crisis outreach team.
- 1482 (b) The department shall coordinate with each mental health service provider that
1483 receives state funds to determine which health benefit plans, if any, have not
1484 contracted or have refused to contract with the mental health service provider at usual
1485 and customary rates for the services provided by the mental health service provider.
- 1486 (c) In each year that the department identifies a health benefit plan that meets the
1487 description in Subsection (6)(b), the department shall provide a report on the
1488 information gathered under Subsection (6)(b) to the Health and Human Services
1489 Interim Committee at or before the committee's October meeting.

Section 16. Section **26B-1-414** is amended to read:

26B-1-414 (Effective 05/01/24). Child Care Provider Licensing Committee -- Duties.

- (1) (a) The Child Care [~~Center~~] Provider Licensing Committee shall be comprised of 12 members appointed by the governor with the advice and consent of the Senate in accordance with this Subsection (1).
- (b) The governor shall appoint three members who:
- (i) have at least five years of experience as an owner in or director of a for profit or not-for-profit center based child care as defined in Section 26B-2-401; and
 - (ii) hold an active license as a child care center from the department to provide center based child care as defined in Section 26B-2-401.
- (c) The governor shall appoint two members who hold an active license as a residential child care provider and one member who is a certified residential child care provider.
- (d) (i) The governor shall appoint one member to represent each of the following:
- (A) a parent with a child in a licensed center based child care facility;
 - (B) a parent with a child in a residential based child care facility;
 - (C) a child development expert from the state system of higher education;
 - (D) except as provided in Subsection (1)(f), a pediatrician licensed in the state;
 - (E) a health care provider; and
 - (F) an architect licensed in the state.
- (ii) Except as provided in Subsection (1)(d)(i)(C), a member appointed under Subsection (1)(d)(i) may not be an employee of the state or a political subdivision of the state.
- (e) At least one member described in Subsection (1)(b) shall at the time of appointment reside in a county that is not a county of the first class.
- (f) For the appointment described in Subsection (1)(d)(i)(D), the governor may appoint a health care professional who specializes in pediatric health if:
- (i) the health care professional is licensed under:
 - (A) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice nurse practitioner; or
 - (B) Title 58, Chapter 70a, Utah Physician Assistant Act; and
 - (ii) before appointing a health care professional under this Subsection (1)(f), the governor:
 - (A) sends a notice to a professional physician organization in the state regarding

- 1524 the opening for the appointment described in Subsection (1)(d)(i)(D); and
1525 (B) receives no applications from a pediatrician who is licensed in the state for the
1526 appointment described in Subsection (1)(d)(i)(D) within 90 days after the day
1527 on which the governor sends the notice described in Subsection (1)(f)(ii)(A).
- 1528 (2) (a) Except as required by Subsection (2)(b), as terms of current members expire, the
1529 governor shall appoint each new member or reappointed member to a four-year term
1530 ending June 30.
- 1531 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the
1532 time of appointment or reappointment, adjust the length of terms to ensure that the
1533 terms of members are staggered so that approximately half of the licensing
1534 committee is appointed every two years.
- 1535 (c) Upon the expiration of the term of a member of the licensing committee, the member
1536 shall continue to hold office until a successor is appointed and qualified.
- 1537 (d) A member may not serve more than two consecutive terms.
- 1538 (e) Members of the licensing committee shall annually select one member to serve as
1539 chair who shall establish the agenda for licensing committee meetings.
- 1540 (3) When a vacancy occurs in the membership for any reason, the governor, with the advice
1541 and consent of the Senate, shall appoint a replacement for the unexpired term.
- 1542 (4) (a) The licensing committee shall meet at least every two months.
- 1543 (b) The director may call additional meetings:
- 1544 (i) at the director's discretion;
- 1545 (ii) upon the request of the chair; or
- 1546 (iii) upon the written request of three or more members.
- 1547 (5) Seven members of the licensing committee constitute a quorum for the transaction of
1548 business.
- 1549 (6) A member appointed under Subsection (1)(b) may not vote on any action proposed by
1550 the licensing committee regarding residential child care.
- 1551 (7) A member appointed under Subsection (1)(c) may not vote on any action proposed by
1552 the licensing committee regarding center based child care.
- 1553 (8) A member of the licensing committee may not receive compensation or benefits for the
1554 member's service, but may receive per diem and travel expenses as allowed in:
- 1555 (a) Section 63A-3-106;
- 1556 (b) Section 63A-3-107; and
- 1557 (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and

1558 63A-3-107.

1559 (9) The licensing committee shall:

1560 (a) in concurrence with the department and in accordance with Title 63G, Chapter 3,
1561 Utah Administrative Rulemaking Act, make rules that govern center based child care
1562 and residential child care, as those terms are defined in Section 26B-2-401, as
1563 necessary to protect qualifying children's common needs for a safe and healthy
1564 environment, to provide for:

1565 (i) adequate facilities and equipment; and

1566 (ii) competent caregivers considering the age of the children and the type of program
1567 offered by the licensee

1568 (b) in concurrence with the department and in accordance with Title 63G, Chapter 3,
1569 Utah Administrative Rulemaking Act, make rules necessary to carry out the purposes
1570 of Chapter 2, Part 4, Child Care Licensing, that govern center based child care and
1571 residential child care, as those terms are defined in Section 26B-2-401, in the
1572 following areas:

1573 (i) requirements for applications, the application process, and compliance with other
1574 applicable statutes and rules;

1575 (ii) documentation, policies, and procedures that providers shall have in place in
1576 order to be licensed, in accordance with this Subsection (9);

1577 (iii) categories, classifications, and duration of initial and ongoing licenses;

1578 (iv) changes of ownership or name, changes in licensure status, and changes in
1579 operational status;

1580 (v) license expiration and renewal, contents, and posting requirements;

1581 (vi) procedures for inspections, complaint resolution, disciplinary actions, and other
1582 procedural measures to encourage and ensure compliance with statute and rule;
1583 and

1584 (vii) guidelines necessary to ensure consistency and appropriateness in the regulation
1585 and discipline of licensees;

1586 (c) advise the department on the administration of a matter affecting center based child
1587 care or residential child care, as those terms are defined in Section 26B-2-401;

1588 (d) advise and assist the department in conducting center based child care provider
1589 seminars and residential child care seminars; and

1590 (e) perform other duties as provided in Section 26B-2-402.

1591 (10) (a) The licensing committee may not enforce the rules adopted under this section.

(b) the department shall enforce the rules adopted under this section in accordance with Section 26B-2-402.

Section 17. Section **26B-1-421** is amended to read:

26B-1-421 (Effective 05/01/24). Compassionate Use Board.

(1) The definitions in Section 26B-4-201 apply to this section.

(2) (a) The department shall establish a Compassionate Use Board consisting of:

(i) seven qualified medical providers that the executive director appoints and the Senate confirms:

(A) who are knowledgeable about the medicinal use of cannabis;

(B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(C) who are board certified by the American Board of Medical Specialties or an American Osteopathic Association Specialty Certifying Board in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, family medicine, or gastroenterology; and

(ii) as a nonvoting member and the chair of the Compassionate Use Board, the executive director or the director's designee.

(b) In appointing the seven qualified medical providers described in Subsection (2)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

(3) (a) Of the members of the Compassionate Use Board that the executive director first appoints:

(i) three shall serve an initial term of two years; and

(ii) the remaining members shall serve an initial term of four years.

(b) After an initial term described in Subsection (3)(a) expires:

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

(c) A member of the Compassionate Use Board may serve until a successor is appointed.

(d) Four members constitute a quorum of the Compassionate Use Board.

(4) A member of the Compassionate Use Board may receive:

(a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and

(b) travel expenses in accordance with Section 63A-3-107 and rules made by the

- 1626 Division of Finance in accordance with Section 63A-3-107.
- 1627 (5) The Compassionate Use Board shall:
- 1628 (a) review and recommend for department approval a petition to the board regarding an
- 1629 individual described in Subsection 26B-4-213(2)(a), a minor described in Subsection
- 1630 26B-4-213(2)(c), or an individual who is not otherwise qualified to receive a medical
- 1631 cannabis card to obtain a medical cannabis card for compassionate use, for the
- 1632 standard or a reduced period of validity, if:
- 1633 (i) for an individual who is not otherwise qualified to receive a medical cannabis
- 1634 card, the individual's qualified medical provider is actively treating the individual
- 1635 for an intractable condition that:
- 1636 (A) substantially impairs the individual's quality of life; and
- 1637 (B) has not, in the qualified medical provider's professional opinion, adequately
- 1638 responded to conventional treatments;
- 1639 (ii) the qualified medical provider:
- 1640 (A) recommends that the individual or minor be allowed to use medical cannabis;
- 1641 and
- 1642 (B) provides a letter, relevant treatment history, and notes or copies of progress
- 1643 notes describing relevant treatment history including rationale for considering
- 1644 the use of medical cannabis; and
- 1645 (iii) the Compassionate Use Board determines that:
- 1646 (A) the recommendation of the individual's qualified medical provider is justified;
- 1647 and
- 1648 (B) based on available information, it may be in the best interests of the individual
- 1649 to allow the use of medical cannabis;
- 1650 (b) when a qualified medical provider recommends that an individual described in
- 1651 Subsection 26B-4-213(2)(a)(i)(B) or a minor described in Subsection 26B-4-213
- 1652 (2)(c) be allowed to use a medical cannabis device or medical cannabis product to
- 1653 vaporize a medical cannabis treatment, review and approve or deny the use of the
- 1654 medical cannabis device or medical cannabis product;
- 1655 (c) unless no petitions are pending:
- 1656 (i) meet to receive or review compassionate use petitions at least quarterly; and
- 1657 (ii) if there are more petitions than the board can receive or review during the board's
- 1658 regular schedule, as often as necessary;
- 1659 (d) except as provided in Subsection (6), complete a review of each petition and

recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition;

(e) consult with the department regarding the criteria described in Subsection (6); and

(f) report, before November 1 of each year, to the Health and Human Services Interim Committee:

(i) the number of compassionate use recommendations the board issued during the past year; and

(ii) the types of conditions for which the board recommended compassionate use.

(6) The department shall make rules, in consultation with the Compassionate Use Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process and criteria for a petition to the board to automatically qualify for expedited final review and approval or denial by the department in cases where, in the determination of the department and the board:

(a) time is of the essence;

(b) engaging the full review process would be unreasonable in light of the petitioner's physical condition; and

(c) sufficient factors are present regarding the petitioner's safety.

(7) (a) (i) The department shall review:

(A) any compassionate use for which the Compassionate Use Board recommends approval under Subsection (5)(d) to determine whether the board properly exercised the board's discretion under this section; and

(B) any expedited petitions the department receives under the process described in Subsection (6).

(ii) If the department determines that the Compassionate Use Board properly exercised the board's discretion in recommending approval under Subsection (5)(d) or that the expedited petition merits approval based on the criteria established in accordance with Subsection (6), the department shall:

(A) issue the relevant medical cannabis card; and

(B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the qualified medical provider described in Subsection (5)(a).

(b) [(i)] If the Compassionate Use Board recommends denial under Subsection (5)(d), the individual seeking to obtain a medical cannabis card may petition the

department to review the board's decision.

~~[(ii) If the department determines that the Compassionate Use Board's recommendation for denial under Subsection (5)(d) was arbitrary or capricious:]~~
~~[(A) the department shall notify the Compassionate Use Board of the department's determination; and]~~
~~[(B) the board shall reconsider the Compassionate Use Board's refusal to recommend approval under this section.]~~

(c) In reviewing the Compassionate Use Board's recommendation for approval or denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

(8) Any individually identifiable health information contained in a petition that the Compassionate Use Board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The Compassionate Use Board shall annually report the board's activity to the Cannabis Research Review Board and the advisory board.

Section 18. Section **26B-1-422.1** is amended to read:

26B-1-422.1 (Effective 05/01/24). Reports.

(1) (a) On or before August 1 of each year, the ~~[council]~~ Early Childhood Utah Advisory Council created in Section 26B-1-422 shall provide an annual report to the executive director, the executive director of the Department of Workforce Services, and the state superintendent.

(b) The annual report shall include:

- (i) a statewide assessment concerning the availability of high-quality pre-kindergarten services for children from low-income households;
- (ii) a statewide strategic report addressing the activities mandated by the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b, including:
 - (A) identifying opportunities for and barriers to collaboration and coordination among federally-funded and state-funded child health and development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;
 - (B) evaluating the overall participation of children in existing federal, state, and

- 1728 local child care programs and early childhood health, development, family
1729 support, and education programs;
- 1730 (C) recommending statewide professional development and career advancement
1731 plans for early childhood educators and service providers in the state, including
1732 an analysis of the capacity and effectiveness of programs at two- and four-year
1733 public and private institutions of higher education that support the development
1734 of early childhood educators; and
- 1735 (D) recommending improvements to the state's early learning standards and
1736 high-quality comprehensive early learning standards; and
- 1737 (iii) the recommendations described in Subsection 26B-1-422(4)(e).
- 1738 (2) In addition to the annual report described in Subsection (1)(a), on or before August 1,
1739 2024, and at least every five years thereafter, the council shall provide to the executive
1740 director, the executive director of the Department of Workforce Services, and the state
1741 superintendent, a statewide needs assessment concerning the quality and availability of
1742 early childhood education, health, and development programs and services for children
1743 in early childhood.

1744 Section 19. Section **26B-1-435** is amended to read:

1745 **26B-1-435 (Effective 05/01/24). Medical Cannabis Policy Advisory Board**
1746 **creation -- Membership.**

1747 (1) There is created within the department the Medical Cannabis Policy Advisory Board.

1748 (2) (a) The advisory board shall consist of the following members:

1749 (i) appointed by the executive director:

1750 (A) a qualified medical provider who has at least 100 patients who have a medical
1751 cannabis patient card at the time of appointment;

1752 (B) a medical research professional;

1753 (C) a mental health specialist;

1754 (D) an individual who represents an organization that advocates for medical
1755 cannabis patients;

1756 (E) an individual who holds a medical cannabis patient card; and

1757 (F) a member of the general public who does not hold a medical cannabis card; and

1758 (ii) appointed by the commissioner of the Department of Agriculture and Food:

1759 (A) an individual who owns or operates a licensed cannabis cultivation facility, as
1760 defined in Section 4-41a-102;

1761 (B) an individual who owns or operates a licensed medical cannabis pharmacy;

- 1762 and
1763 (C) a law enforcement officer.
- 1764 (b) The commissioner of the Department of Agriculture and Food shall ensure that at
1765 least one individual appointed under Subsection (2)(a)(ii)(A) or (B) also owns or
1766 operates a licensed cannabis processing facility.
- 1767 (3) (a) Subject to Subsection (3)(b), a member of the advisory board shall serve for a
1768 four year term.
- 1769 (b) When appointing the initial membership of the advisory board, the executive director
1770 and the commissioner of the Department of Agriculture and Food shall coordinate to
1771 appoint four advisory board members to serve a term of two years to ensure that
1772 approximately half of the board is appointed every two years.
- 1773 (4) (a) If an advisory board member is no longer able to serve as a member, a new
1774 member shall be appointed in the same manner as the original appointment.
- 1775 (b) A member appointed in accordance with Subsection (4)(a) shall serve for the
1776 remainder of the unexpired term of the original appointment.
- 1777 (5) (a) A majority of the advisory board members constitutes a quorum.
- 1778 (b) The action of a majority of a quorum constitutes an action of the advisory board.
- 1779 (c) The advisory board shall annually designate one of the advisory board's members to
1780 serve as chair for a one-year period.
- 1781 (6) An advisory board member may not receive compensation or benefits for the member's
1782 service on the advisory board but may receive per diem and reimbursement for travel
1783 expenses incurred as an advisory board member in accordance with:
- 1784 (a) Sections 63A-3-106 and 63A-3-107; and
- 1785 (b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
1786 63A-3-107.
- 1787 (7) The department shall:
- 1788 (a) provide staff support for the advisory board; and
- 1789 (b) assist the advisory board in conducting meetings.
- 1790 Section 20. Section **26B-1-435.1** is amended to read:
- 1791 **26B-1-435.1 (Effective 05/01/24). Medical Cannabis Policy Advisory Board**
1792 **duties.**
- 1793 (1) The advisory board may recommend:
- 1794 (a) to the department or the Department of Agriculture and Food changes to current or
1795 proposed medical cannabis rules or statutes;

- 1796 (b) to the appropriate legislative committee whether the advisory board supports a
1797 change to medical cannabis statutes.
- 1798 (2) The advisory board shall:
- 1799 (a) review any draft rule that is authorized under [~~this chapter~~] Chapter 4, Part 2,
1800 Cannabinoid Research and Medical Cannabis, or Title 4, Chapter 41a, Cannabis
1801 Production Establishments and Pharmacies;
- 1802 (b) consult with the Department of Agriculture and Food regarding the issuance of an
1803 additional:
- 1804 (i) cultivation facility license under Section 4-41a-205; or
1805 (ii) pharmacy license under Section 4-41a-1005;
- 1806 (c) consult with the department regarding cannabis patient education;
- 1807 (d) consult regarding the reasonableness of any fees set by the department or the Utah
1808 Department of Agriculture and Food that pertain to the medical cannabis program;
1809 and
- 1810 (e) consult regarding any issue pertaining to medical cannabis when asked by the
1811 department or the Utah Department of Agriculture and Food.
- 1812 Section 21. Section **26B-1-502** is amended to read:
- 1813 **26B-1-502 (Effective 05/01/24). Initial review.**
- 1814 (1) Within seven days after the day on which the department knows that a qualified
1815 individual has died or is an individual described in Subsection 26B-1-501(7)(h), a
1816 person designated by the department shall:
- 1817 (a) (i) for a death, complete a deceased client report form, created by the department;
1818 or
1819 (ii) for an individual described in Subsection 26B-1-501(7)(h), complete a near
1820 fatality client report form, created by the department; and
- 1821 (b) forward the completed client report form to the director of the office or division that
1822 has jurisdiction over the region or facility.
- 1823 (2) The director of the office or division described in Subsection (1) shall, upon receipt of a
1824 near fatality client report form or a deceased client report form, immediately provide a
1825 copy of the form to:
- 1826 (a) the executive director; and
1827 (b) the fatality review coordinator or the fatality review coordinator's designee.
- 1828 (3) Within 10 days after the day on which the fatality review coordinator or the fatality
1829 review coordinator's designee receives a copy of the near fatality client report form or

the deceased client report form, the fatality review coordinator or the fatality review coordinator's designee shall request a copy of all relevant department case records regarding the individual who is the subject of the client report form.

(4) Each person who receives a request for a record described in Subsection (3) shall provide a copy of the record to the fatality review coordinator or the fatality review coordinator's designee, by a secure method, within seven days after the day on which the request is made.

(5) Within 30 days after the day on which the fatality review coordinator or the fatality review coordinator's designee receives the case records requested under Subsection (3), the fatality review coordinator, or the fatality review coordinator's designee, shall:

(a) review the client report form, the case files, and other relevant information received by the fatality review coordinator; and

(b) make a recommendation to the director of the Division of Continuous Quality and Improvement regarding whether a formal review of the death or near fatality should be conducted.

(6) (a) In accordance with Subsection (6)(b), within seven days after the day on which the fatality review coordinator or the fatality review coordinator's designee makes the recommendation described in Subsection (5)(b), the director of the Division of Continuous Quality and Improvement or the director's designee shall determine whether to order that a review of the death or near fatality be conducted.

(b) The director of the Division of Continuous Quality and Improvement or the director's designee shall order that a formal review of the death or near fatality be conducted if:

(i) at the time of the near fatality or the death, the qualified individual is:

(A) an individual described in Subsection [~~26B-1-501(6)(a)~~] 26B-1-501(7)(a) or

(b), unless:

(I) the near fatality or the death is due to a natural cause; or

(II) the director of the Division of Continuous Quality and Improvement or the director's designee determines that the near fatality or the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department; or

(B) a child in foster care or substitute care, unless the near fatality or the death is due to:

(I) a natural cause; or

(II) an accident;

- (ii) it appears, based on the information provided to the director of the Division of Continuous Quality and Improvement or the director's designee, that:
- (A) a provision of law, rule, policy, or procedure relating to the qualified individual or the individual's family may not have been complied with;
 - (B) the near fatality or the fatality was not responded to properly;
 - (C) a law, rule, policy, or procedure may need to be changed; or
 - (D) additional training is needed;
- (iii) (A) the death is caused by suicide; or
- (B) the near fatality is caused by attempted suicide; or
- (iv) the director of the Division of Continuous Quality and Improvement or the director's designee determines that another reason exists to order that a review of the near fatality or the death be conducted.

Section 22. Section **26B-2-101** is amended to read:

26B-2-101 (Effective 05/01/24). Definitions.

As used in this part:

- (1) "Adoption services" means the same as that term is defined in Section 80-2-801.
- (2) "Adult day care" means nonresidential care and supervision:
 - (a) for three or more adults for at least four but less than 24 hours a day; and
 - (b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.
- (3) "Applicant" means a person that applies for an initial license or a license renewal under this part.
- (4) (a) "Associated with the licensee" means that an individual is:
 - (i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or
 - (ii) applying to become affiliated with a licensee in a capacity described in Subsection (4)(a)(i).
- (b) "Associated with the licensee" does not include:
 - (i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:
 - (A) a local mental health authority described in Section 17-43-301;
 - (B) a local substance abuse authority described in Section 17-43-201; or
 - (C) a board of an organization operating under a contract to provide mental health

- 1898 or substance use programs, or services for the local mental health authority or
1899 substance abuse authority; or
- 1900 (ii) a guest or visitor whose access to a child or a vulnerable adult is directly
1901 supervised at all times.
- 1902 (5) (a) "Boarding school" means a private school that:
- 1903 (i) uses a regionally accredited education program;
- 1904 (ii) provides a residence to the school's students:
- 1905 (A) for the purpose of enabling the school's students to attend classes at the
1906 school; and
- 1907 (B) as an ancillary service to educating the students at the school;
- 1908 (iii) has the primary purpose of providing the school's students with an education, as
1909 defined in Subsection (5)(b)(i); and
- 1910 (iv) (A) does not provide the treatment or services described in Subsection [(38)(a)]
1911 (39)(a); or
- 1912 (B) provides the treatment or services described in Subsection [(38)(a)] (39)(a) on
1913 a limited basis, as described in Subsection (5)(b)(ii).
- 1914 (b) (i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for
1915 one or more grades from kindergarten through grade 12.
- 1916 (ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment
1917 or services described in Subsection [(38)(a)] (39)(a) on a limited basis if:
- 1918 (A) the treatment or services described in Subsection [(38)(a)] (39)(a) are provided
1919 only as an incidental service to a student; and
- 1920 (B) the school does not:
- 1921 (I) specifically solicit a student for the purpose of providing the treatment or
1922 services described in Subsection [(38)(a)] (39)(a); or
- 1923 (II) have a primary purpose of providing the treatment or services described in
1924 Subsection [(38)(a)] (39)(a).
- 1925 (c) "Boarding school" does not include a therapeutic school.
- 1926 (6) "Certification" means a less restrictive level of licensure issued by the department.
- 1927 [(6)] (7) "Child" means an individual under 18 years old.
- 1928 [(7)] (8) "Child placing" means receiving, accepting, or providing custody or care for any
1929 child, temporarily or permanently, for the purpose of:
- 1930 (a) finding a person to adopt the child;
- 1931 (b) placing the child in a home for adoption; or

- 1932 (c) foster home placement.
- 1933 [(8)] (9) "Child-placing agency" means a person that engages in child placing.
- 1934 [(9)] (10) "Client" means an individual who receives or has received services from a
- 1935 licensee.
- 1936 [(10)] (11) (a) "Congregate care program" means any of the following that provide
- 1937 services to a child:
- 1938 (i) an outdoor youth program;
- 1939 (ii) a residential support program;
- 1940 (iii) a residential treatment program; or
- 1941 (iv) a therapeutic school.
- 1942 (b) "Congregate care program" does not include a human services program that:
- 1943 (i) is licensed to serve adults; and
- 1944 (ii) is approved by the office to service a child for a limited time.
- 1945 [(11)] (12) "Day treatment" means specialized treatment that is provided to:
- 1946 (a) a client less than 24 hours a day; and
- 1947 (b) four or more persons who:
- 1948 (i) are unrelated to the owner or provider; and
- 1949 (ii) have emotional, psychological, developmental, physical, or behavioral
- 1950 dysfunctions, impairments, or chemical dependencies.
- 1951 [(12)] (13) "Department contractor" means an individual who:
- 1952 (a) provides services under a contract with the department; and
- 1953 (b) due to the contract with the department, has or will likely have direct access to a
- 1954 child or vulnerable adult.
- 1955 [(13)] (14) "Direct access" means that an individual has, or likely will have:
- 1956 (a) contact with or access to a child or vulnerable adult that provides the individual with
- 1957 an opportunity for personal communication or touch; or
- 1958 (b) an opportunity to view medical, financial, or other confidential personal identifying
- 1959 information of the child, the child's parents or legal guardians, or the vulnerable adult.
- 1960 [(14)] (15) "Directly supervised" means that an individual is being supervised under the
- 1961 uninterrupted visual and auditory surveillance of another individual who has a current
- 1962 background [screening] check approval issued by the office.
- 1963 [(15)] (16) "Director" means the director of the office.
- 1964 [(16)] (17) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 1965 [(17)] (18) "Domestic violence treatment program" means a nonresidential program

- 1966 designed to provide psychological treatment and educational services to perpetrators and
1967 victims of domestic violence.
- 1968 ~~[(18)]~~ (19) "Elder adult" means a person 65 years old or older.
- 1969 ~~[(19)]~~ (20) "Foster home" means a residence that is licensed or certified by the office for the
1970 full-time substitute care of a child.
- 1971 ~~[(20)]~~ (21) "Health benefit plan" means the same as that term is defined in Section
1972 31A-22-634.
- 1973 ~~[(21)]~~ (22) "Health care provider" means the same as that term is defined in Section
1974 78B-3-403.
- 1975 ~~[(22)]~~ (23) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.
- 1976 ~~[(23)]~~ (24) (a) "Human services program" means:
- 1977 (i) a foster home;
- 1978 (ii) a therapeutic school;
- 1979 (iii) a youth program;
- 1980 (iv) an outdoor youth program;
- 1981 (v) a residential treatment program;
- 1982 (vi) a residential support program;
- 1983 (vii) a resource family home;
- 1984 (viii) a recovery residence; or
- 1985 (ix) a facility or program that provides:
- 1986 (A) adult day care;
- 1987 (B) day treatment;
- 1988 (C) outpatient treatment;
- 1989 (D) domestic violence treatment;
- 1990 (E) child-placing services;
- 1991 (F) social detoxification; or
- 1992 (G) any other human services that are required by contract with the department to
1993 be licensed with the department.
- 1994 (b) "Human services program" does not include:
- 1995 (i) a boarding school; or
- 1996 (ii) a residential, vocational and life skills program, as defined in Section 13-53-102.
- 1997 ~~[(24)]~~ (25) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 1998 ~~[(25)]~~ (26) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.
- 1999 ~~[(26)]~~ (27) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

- 2000 ~~[(27)]~~ (28) "Intermediate secure treatment" means 24-hour specialized residential treatment
2001 or care for an individual who:
- 2002 (a) cannot live independently or in a less restrictive environment; and
2003 (b) requires, without the individual's consent or control, the use of locked doors to care
2004 for the individual.
- 2005 ~~[(28)]~~ (29) "Licensee" means an individual or a human services program licensed by the
2006 office.
- 2007 ~~[(29)]~~ (30) "Local government" means a city, town, metro township, or county.
- 2008 ~~[(30)]~~ (31) "Minor" means child.
- 2009 ~~[(31)]~~ (32) "Office" means the Office of Licensing within the department.
- 2010 ~~[(32)]~~ (33) "Outdoor youth program" means a program that provides:
- 2011 (a) services to a child that has:
- 2012 (i) a chemical dependency; or
2013 (ii) a dysfunction or impairment that is emotional, psychological, developmental,
2014 physical, or behavioral;
- 2015 (b) a 24-hour outdoor group living environment; and
- 2016 (c) (i) regular therapy, including group, individual, or supportive family therapy; or
2017 (ii) informal therapy or similar services, including wilderness therapy, adventure
2018 therapy, or outdoor behavioral healthcare.
- 2019 ~~[(33)]~~ (34) "Outpatient treatment" means individual, family, or group therapy or counseling
2020 designed to improve and enhance social or psychological functioning for those whose
2021 physical and emotional status allows them to continue functioning in their usual living
2022 environment.
- 2023 ~~[(34)]~~ (35) "Practice group" or "group practice" means two or more health care providers
2024 legally organized as a partnership, professional corporation, or similar association, for
2025 which:
- 2026 (a) substantially all of the services of the health care providers who are members of the
2027 group are provided through the group and are billed in the name of the group and
2028 amounts received are treated as receipts of the group; and
- 2029 (b) the overhead expenses of and the income from the practice are distributed in
2030 accordance with methods previously determined by members of the group.
- 2031 ~~[(35)]~~ (36) "Private-placement child" means a child whose parent or guardian enters into a
2032 contract with a congregate care program for the child to receive services.
- 2033 ~~[(36)]~~ (37) (a) "Recovery residence" means a home, residence, or facility that meets at

- 2034 least two of the following requirements:
- 2035 (i) provides a supervised living environment for individuals recovering from a
- 2036 substance use disorder;
- 2037 (ii) provides a living environment in which more than half of the individuals in the
- 2038 residence are recovering from a substance use disorder;
- 2039 (iii) provides or arranges for residents to receive services related to the resident's
- 2040 recovery from a substance use disorder, either on or off site;
- 2041 (iv) is held out as a living environment in which individuals recovering from
- 2042 substance abuse disorders live together to encourage continued sobriety; or
- 2043 (v) (A) receives public funding; or
- 2044 (B) is run as a business venture, either for-profit or not-for-profit.
- 2045 (b) "Recovery residence" does not mean:
- 2046 (i) a residential treatment program;
- 2047 (ii) residential support program; or
- 2048 (iii) a home, residence, or facility, in which:
- 2049 (A) residents, by a majority vote of the residents, establish, implement, and
- 2050 enforce policies governing the living environment, including the manner in
- 2051 which applications for residence are approved and the manner in which
- 2052 residents are expelled;
- 2053 (B) residents equitably share rent and housing-related expenses; and
- 2054 (C) a landlord, owner, or operator does not receive compensation, other than fair
- 2055 market rental income, for establishing, implementing, or enforcing policies
- 2056 governing the living environment.
- 2057 ~~[(37)]~~ (38) "Regular business hours" means:
- 2058 (a) the hours during which services of any kind are provided to a client; or
- 2059 (b) the hours during which a client is present at the facility of a licensee.
- 2060 ~~[(38)]~~ (39) (a) "Residential support program" means a program that arranges for or
- 2061 provides the necessities of life as a protective service to individuals or families who
- 2062 have a disability or who are experiencing a dislocation or emergency that prevents
- 2063 them from providing these services for themselves or their families.
- 2064 (b) "Residential support program" includes a program that provides a supervised living
- 2065 environment for individuals with dysfunctions or impairments that are:
- 2066 (i) emotional;
- 2067 (ii) psychological;

- 2068 (iii) developmental; or
2069 (iv) behavioral.
- 2070 (c) Treatment is not a necessary component of a residential support program.
- 2071 (d) "Residential support program" does not include:
- 2072 (i) a recovery residence; or
2073 (ii) a program that provides residential services that are performed:
- 2074 (A) exclusively under contract with the department and provided to individuals
2075 through the Division of Services for People with Disabilities; or
2076 (B) in a facility that serves fewer than four individuals.
- 2077 ~~[(39)]~~ (40) (a) "Residential treatment" means a 24-hour group living environment for
2078 four or more individuals unrelated to the owner or provider that offers room or board
2079 and specialized treatment, behavior modification, rehabilitation, discipline, emotional
2080 growth, or habilitation services for persons with emotional, psychological,
2081 developmental, or behavioral dysfunctions, impairments, or chemical dependencies.
- 2082 (b) "Residential treatment" does not include a:
- 2083 (i) boarding school;
2084 (ii) foster home; or
2085 (iii) recovery residence.
- 2086 ~~[(40)]~~ (41) "Residential treatment program" means a program or facility that provides:
- 2087 (a) residential treatment; or
2088 (b) intermediate secure treatment.
- 2089 ~~[(41)]~~ (42) "Seclusion" means the involuntary confinement of an individual in a room or an
2090 area:
- 2091 (a) away from the individual's peers; and
2092 (b) in a manner that physically prevents the individual from leaving the room or area.
- 2093 ~~[(42)]~~ (43) "Social detoxification" means short-term residential services for persons who are
2094 experiencing or have recently experienced drug or alcohol intoxication, that are provided
2095 outside of a health care facility licensed under Part 2, Health Care Facility Licensing and
2096 Inspection, and that include:
- 2097 (a) room and board for persons who are unrelated to the owner or manager of the facility;
2098 (b) specialized rehabilitation to acquire sobriety; and
2099 (c) aftercare services.
- 2100 ~~[(43)]~~ (44) "Substance abuse disorder" or "substance use disorder" mean the same as
2101 "substance use disorder" is defined in Section 26B-5-501.

- 2102 ~~[(44)]~~ (45) "Substance abuse treatment program" or "substance use disorder treatment
2103 program" means a program:
2104 (a) designed to provide:
2105 (i) specialized drug or alcohol treatment;
2106 (ii) rehabilitation; or
2107 (iii) habilitation services; and
2108 (b) that provides the treatment or services described in Subsection ~~[(44)(a)]~~ (45)(a) to
2109 persons with:
2110 (i) a diagnosed substance use disorder; or
2111 (ii) chemical dependency disorder.
- 2112 ~~[(45)]~~ (46) "Therapeutic school" means a residential group living facility:
2113 (a) for four or more individuals that are not related to:
2114 (i) the owner of the facility; or
2115 (ii) the primary service provider of the facility;
2116 (b) that serves students who have a history of failing to function:
2117 (i) at home;
2118 (ii) in a public school; or
2119 (iii) in a nonresidential private school; and
2120 (c) that offers:
2121 (i) room and board; and
2122 (ii) an academic education integrated with:
2123 (A) specialized structure and supervision; or
2124 (B) services or treatment related to:
2125 (I) a disability;
2126 (II) emotional development;
2127 (III) behavioral development;
2128 (IV) familial development; or
2129 (V) social development.
- 2130 ~~[(46)]~~ (47) "Unrelated persons" means persons other than parents, legal guardians,
2131 grandparents, brothers, sisters, uncles, or aunts.
- 2132 ~~[(47)]~~ (48) "Vulnerable adult" means an elder adult or an adult who has a temporary or
2133 permanent mental or physical impairment that substantially affects the person's ability to:
2134 (a) provide personal protection;
2135 (b) provide necessities such as food, shelter, clothing, or mental or other health care;

- 2136 (c) obtain services necessary for health, safety, or welfare;
2137 (d) carry out the activities of daily living;
2138 (e) manage the adult's own resources; or
2139 (f) comprehend the nature and consequences of remaining in a situation of abuse,
2140 neglect, or exploitation.
- 2141 [(48)] (49) (a) "Youth program" means a program designed to provide behavioral,
2142 substance use, or mental health services to minors that:
2143 (i) serves adjudicated or nonadjudicated youth;
2144 (ii) charges a fee for the program's services;
2145 (iii) may provide host homes or other arrangements for overnight accommodation of
2146 the youth;
2147 (iv) may provide all or part of the program's services in the outdoors;
2148 (v) may limit or censor access to parents or guardians; and
2149 (vi) prohibits or restricts a minor's ability to leave the program at any time of the
2150 minor's own free will.
- 2151 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl
2152 Scouts, 4-H, and other such organizations.
- 2153 [(49)] (50) (a) "Youth transportation company" means any person that transports a child
2154 for payment to or from a congregate care program in Utah.
- 2155 (b) "Youth transportation company" does not include:
2156 (i) a relative of the child;
2157 (ii) a state agency; or
2158 (iii) a congregate care program's employee who transports the child from the
2159 congregate care program that employs the employee and returns the child to the
2160 same congregate care program.
- 2161 Section 23. Section **26B-2-103** is amended to read:
2162 **26B-2-103 (Effective 05/01/24). Division of Licensing and Background Checks.**
- 2163 (1) There is created the [~~Office of Licensing~~] Division of Licensing and Background Checks
2164 within the department.
- 2165 (2) The [~~office~~] division shall be the licensing and background screening authority for the
2166 department, and is vested with all the powers, duties, and responsibilities described in:
2167 (a) this part;
2168 (b) Part 2, Health Care Facility Licensing and Inspection; [~~and~~]
2169 (c) Part 4, Child Care Licensing; and

2170 ~~[(e)]~~ (d) Part 6, Mammography Quality Assurance.

2171 (3) The executive director shall appoint the director of the ~~[office]~~ division.

2172 (4) There are created within the division the Office of Licensing and the Office of
2173 Background Processing.

2174 ~~[(4) The director shall have a bachelor's degree from an accredited university or college, be~~
2175 ~~experienced in administration, and be knowledgeable of health and human services~~
2176 ~~licensing.]~~

2177 Section 24. Section **26B-2-104** is amended to read:

2178 **26B-2-104 (Effective 05/01/24). Division responsibilities.**

2179 (1) Subject to the requirements of federal and state law, the office shall:

2180 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
2181 Rulemaking Act, to establish:

2182 (i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for
2183 licensees, that shall be limited to:

2184 (A) fire safety;

2185 (B) food safety;

2186 (C) sanitation;

2187 (D) infectious disease control;

2188 (E) safety of the:

2189 (I) physical facility and grounds; and

2190 (II) area and community surrounding the physical facility;

2191 (F) transportation safety;

2192 (G) emergency preparedness and response;

2193 (H) the administration of medical standards and procedures, consistent with the
2194 related provisions of this title;

2195 (I) staff and client safety and protection;

2196 (J) the administration and maintenance of client and service records;

2197 (K) staff qualifications and training, including standards for permitting experience
2198 to be substituted for education, unless prohibited by law;

2199 (L) staff to client ratios;

2200 (M) access to firearms; and

2201 (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

2202 (ii) basic health and safety standards for therapeutic schools, that shall be limited to:

2203 (A) fire safety, except that the standards are limited to those required by law or

- 2204 rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;
- 2205 (B) food safety;
- 2206 (C) sanitation;
- 2207 (D) infectious disease control, except that the standards are limited to:
- 2208 (I) those required by law or rule under this title, or Title 26A, Local Health
- 2209 Authorities; and
- 2210 (II) requiring a separate room for clients who are sick;
- 2211 (E) safety of the physical facility and grounds, except that the standards are
- 2212 limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire
- 2213 Prevention and Fireworks Act;
- 2214 (F) transportation safety;
- 2215 (G) emergency preparedness and response;
- 2216 (H) access to appropriate medical care, including:
- 2217 (I) subject to the requirements of law, designation of a person who is
- 2218 authorized to dispense medication; and
- 2219 (II) storing, tracking, and securing medication;
- 2220 (I) staff and client safety and protection that permits the school to provide for the
- 2221 direct supervision of clients at all times;
- 2222 (J) the administration and maintenance of client and service records;
- 2223 (K) staff qualifications and training, including standards for permitting experience
- 2224 to be substituted for education, unless prohibited by law;
- 2225 (L) staff to client ratios;
- 2226 (M) access to firearms; and
- 2227 (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;
- 2228 (iii) procedures and standards for permitting a licensee to:
- 2229 (A) provide in the same facility and under the same conditions as children,
- 2230 residential treatment services to a person 18 years old or older who:
- 2231 (I) begins to reside at the licensee's residential treatment facility before the
- 2232 person's 18th birthday;
- 2233 (II) has resided at the licensee's residential treatment facility continuously since
- 2234 the time described in Subsection (1)(a)(iii)(A)(I);
- 2235 (III) has not completed the course of treatment for which the person began
- 2236 residing at the licensee's residential treatment facility; and
- 2237 (IV) voluntarily consents to complete the course of treatment described in

2238 Subsection (1)(a)(iii)(A)(III); or
2239 (B) (I) provide residential treatment services to a child who is:
2240 (Aa) at least 12 years old or, as approved by the office, younger than 12
2241 years old; and
2242 (Bb) under the custody of the department, or one of its divisions; and
2243 (II) provide, in the same facility as a child described in Subsection
2244 (1)(a)(iii)(B)(I), residential treatment services to a person who is:
2245 (Aa) at least 18 years old, but younger than 21 years old; and
2246 (Bb) under the custody of the department, or one of its divisions;
2247 (iv) minimum administration and financial requirements for licensees;
2248 (v) guidelines for variances from rules established under this Subsection (1);
2249 (vi) ethical standards, as described in Subsection 78B-6-106(3), and minimum
2250 responsibilities of a child-placing agency that provides adoption services and that
2251 is licensed under this part;
2252 (vii) what constitutes an "outpatient treatment program" for purposes of this part;
2253 (viii) a procedure requiring a licensee to provide an insurer the licensee's records
2254 related to any services or supplies billed to the insurer, and a procedure allowing
2255 the licensee and the insurer to contact the Insurance Department to resolve any
2256 disputes;
2257 (ix) a protocol for the office to investigate and process complaints about licensees;
2258 (x) a procedure for a licensee to:
2259 (A) report the use of a restraint or seclusion within one business day after the day
2260 on which the use of the restraint or seclusion occurs; and
2261 (B) report a critical incident within one business day after the day on which the
2262 incident occurs;
2263 (xi) guidelines for the policies and procedures described in Sections 26B-2-109 and
2264 26B-2-123;
2265 (xii) a procedure for the office to review and approve the policies and procedures
2266 described in Sections 26B-2-109 and 26B-2-123; and
2267 (xiii) a requirement that each human services program publicly post information that
2268 informs an individual how to submit a complaint about a human services program
2269 to the office;
2270 (b) enforce rules relating to the office;
2271 (c) issue licenses in accordance with this part;

- 2272 (d) if the United States Department of State executes an agreement with the office that
2273 designates the office to act as an accrediting entity in accordance with the
2274 Intercountry Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more
2275 agencies and persons to provide intercountry adoption services pursuant to:
2276 (i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and
2277 (ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L.
2278 No. 106-279;
- 2279 (e) make rules to implement the provisions of Subsection (1)(d);
- 2280 (f) conduct surveys and inspections of licensees and facilities in accordance with Section
2281 26B-2-107;
- 2282 (g) collect licensure fees;
- 2283 (h) notify licensees of the name of a person within the department to contact when filing
2284 a complaint;
- 2285 (i) investigate complaints regarding any licensee or human services program;
- 2286 (j) have access to all records, correspondence, and financial data required to be
2287 maintained by a licensee;
- 2288 (k) have authority to interview any client, family member of a client, employee, or
2289 officer of a licensee;
- 2290 (l) have authority to deny, condition, revoke, suspend, or extend any license issued by
2291 the department under this part by following the procedures and requirements of Title
2292 63G, Chapter 4, Administrative Procedures Act;
- 2293 (m) electronically post notices of agency action issued to a human services program,
2294 with the exception of a foster home, on the office's website, in accordance with Title
2295 63G, Chapter 2, Government Records Access and Management Act; and
- 2296 (n) upon receiving a local government's request under Section 26B-2-118, notify the
2297 local government of new human services program license applications, except for
2298 foster homes, for human services programs located within the local government's
2299 jurisdiction.
- 2300 (2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a licensee to
2301 establish and comply with an emergency response plan that requires clients and staff to:
2302 (a) immediately report to law enforcement any significant criminal activity, as defined
2303 by rule, committed:
2304 (i) on the premises where the licensee operates its human services program;
2305 (ii) by or against its clients; or

- 2306 (iii) by or against a staff member while the staff member is on duty;
2307 (b) immediately report to emergency medical services any medical emergency, as
2308 defined by rule:
2309 (i) on the premises where the licensee operates its human services program;
2310 (ii) involving its clients; or
2311 (iii) involving a staff member while the staff member is on duty; and
2312 (c) immediately report other emergencies that occur on the premises where the licensee
2313 operates its human services program to the appropriate emergency services agency.

2314 Section 25. Section **26B-2-120** is amended to read:

2315 **26B-2-120 (Effective 05/01/24). Background check -- Direct access to children or**
2316 **vulnerable adults.**

2317 (1) As used in this section:

- 2318 (a) (i) "Applicant" means~~[, notwithstanding Section 26B-2-101]~~ an individual who is
2319 associated with a certification, contract, or licensee with the department under this
2320 part and has direct access, including:

2321 (A) ~~[an individual who applies for an initial license or certification or a license or~~
2322 ~~certification renewal under this part]~~ an adoptive parent or prospective adoptive
2323 parent, including an applicant for an adoption in accordance with Section
2324 78B-6-128;

2325 (B) ~~[an individual who is associated with a licensee and has or will likely have~~
2326 ~~direct access to a child or a vulnerable adult]~~ a foster parent or prospective
2327 foster parent;

2328 (C) an individual who provides respite care to a foster parent or an adoptive parent
2329 on more than one occasion;

2330 ~~[(D) a department contractor;]~~

2331 ~~[(E)]~~ (D) an individual who transports a child for a youth transportation company;

2332 ~~[(F)]~~ (E) an individual who provides certified peer support, as defined in Section
2333 26B-5-610;

2334 (F) an individual who provides peer support, has a disability or a family member
2335 with a disability, or is in recovery from a mental illness or a substance use
2336 disorder;

2337 (G) an individual who has lived experience with the services provided by the
2338 department, and uses that lived experience to provide support, guidance, or
2339 services to promote resiliency and recovery;

- (H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in the practice of mental health therapy, as defined in Section 58-60-102;
- (I) ~~[a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual]~~ an individual, other than the child or vulnerable adult receiving the service, who is 12 years old or older and resides in a home, that is licensed or certified by the [office] division; or
- ~~[(G) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D)]~~
- (J) an individual who is 12 years old or older and is associated with a certification, contract, or licensee with the department under this part and has or will likely have direct access.
- (ii) "Applicant" does not include:
- (A) an individual who is in the custody of the Division of Child and Family Services or the [Division of Juvenile Justice Services] Division of Juvenile Justice and Youth Services;[or]
- (B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services[-] ;
- (C) a parent of a person receiving services from the Division of Services for People with Disabilities, if the parent provides direct care to and resides with the person, including if the parent provides direct care to and resides with the person pursuant to a court order; or
- (D) an individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule adopted by the Department of Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a program director or a member, as defined by Section 26B-2-105, of the program.
- (b) "Application" means a background ~~[screening]~~ check application to the office.
- (c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.
- ~~[(d) "Certified peer support specialist" means the same as that term is defined in Section~~

- 2374 ~~26B-5-610.]~~
- 2375 ~~[(e)]~~ (d) "Criminal finding" means a record of:
- 2376 (i) an arrest ~~[or]~~ for a criminal offense;
- 2377 (ii) a warrant for ~~[an]~~ a criminal arrest;
- 2378 ~~[(ii)]~~ (iii) charges for a criminal offense; or
- 2379 ~~[(iii)]~~ (iv) a criminal conviction.
- 2380 ~~[(f)]~~ (e) "Direct access" means that an individual has, or likely will have:
- 2381 (i) contact with or access to a child or vulnerable adult by which the individual will
- 2382 have the opportunity for personal communication or touch with the child or
- 2383 vulnerable adult; or
- 2384 (ii) an opportunity to view medical, financial, or other confidential personal
- 2385 identifying information of the child, the child's parent or legal guardian, or the
- 2386 vulnerable adult.
- 2387 (f) (i) "Direct access qualified" means that the applicant has an eligible determination
- 2388 by the office within the license and renewal time period; and
- 2389 (ii) no more than 180 days have passed since the date on which the applicant's
- 2390 association with a certification, contract, or licensee with the department expires.
- 2391 (g) "Incidental care" means occasional care, not in excess of five hours per week and
- 2392 never overnight, for a foster child.
- 2393 (h) "Licensee" means an individual or a human services program licensed by the
- 2394 division.
- 2395 ~~[(g)] "Mental health professional" means an individual who:]~~
- 2396 ~~[(i) is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; and]~~
- 2397 ~~[(ii) engaged in the practice of mental health therapy.]~~
- 2398 ~~[(h)]~~ (i) "Non-criminal finding" means a record maintained in:
- 2399 (i) the Division of Child and Family Services' Management Information System
- 2400 described in Section 80-2-1001;
- 2401 (ii) the Division of Child and Family Services' Licensing Information System
- 2402 described in Section 80-2-1002;
- 2403 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
- 2404 exploitation database described in Section 26B-6-210;
- 2405 (iv) juvenile court arrest, adjudication, and disposition records;
- 2406 ~~[(iv)]~~ (v) the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex
- 2407 and Kidnap Offender Registry, or a national sex offender registry; or

- 2408 ~~[(v)]~~ (vi) a state child abuse or neglect registry.
- 2409 (j) "Office" means the Office of Background Processing within the department.
- 2410 ~~[(i)]~~ (i) ~~"Peer support specialist" means an individual who:~~
- 2411 ~~[(A) has a disability or a family member with a disability, or is in recovery from a~~
- 2412 ~~mental illness or a substance use disorder; and]~~
- 2413 ~~[(B) uses personal experience to provide support, guidance, or services to promote~~
- 2414 ~~resiliency and recovery.]~~
- 2415 ~~[(ii) "Peer support specialist" includes a certified peer support specialist.]~~
- 2416 ~~[(iii) "Peer support specialist" does not include a mental health professional.]~~
- 2417 ~~[(j)]~~ (k) "Personal identifying information" means:
- 2418 (i) current name, former names, nicknames, and aliases;
- 2419 (ii) date of birth;
- 2420 (iii) physical address and email address;
- 2421 (iv) telephone number;
- 2422 (v) driver license or other government-issued identification;
- 2423 (vi) social security number;
- 2424 (vii) only for applicants who are 18 years old or older, fingerprints, in a form
- 2425 specified by the office; and
- 2426 (viii) other information specified by the office by rule made in accordance with Title
- 2427 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 2428 ~~[(k) "Practice of mental health therapy" means the same as that term is defined in~~
- 2429 ~~Section 58-60-102.]~~
- 2430 (2) Except as provided in Subsection~~[-]~~ (12), an applicant or a representative shall submit
- 2431 the following to the office:
- 2432 (a) personal identifying information;
- 2433 (b) a fee established by the office under Section 63J-1-504;~~[-and]~~
- 2434 (c) a disclosure form, specified by the office, for consent for:
- 2435 (i) an initial background check upon ~~[submission of the information described in this~~
- 2436 ~~Subsection (2)]~~ association with a certification, contract, or licensee with the
- 2437 department;
- 2438 (ii) ongoing monitoring of fingerprints and registries until no longer ~~[associated with~~
- 2439 ~~a licensee for 90 days]~~ associated with a certification, contract, or licensee with the
- 2440 department for 180 days;
- 2441 (iii) a background check when the office determines that reasonable cause exists; and

- 2442 (iv) retention of personal identifying information, including fingerprints, for
 2443 monitoring and notification as described in Subsections ~~[(3)(d)]~~ (3)(c) and (4);~~[-and]~~
- 2444 (d) if an applicant resided outside of the United States and its territories during the five
 2445 years immediately preceding the day on which the information described in
 2446 Subsections (2)(a) through (c) is submitted to the office, documentation establishing
 2447 whether the applicant was convicted of a crime during the time that the applicant
 2448 resided outside of the United States or its territories~~[-]~~ ; and
- 2449 (e) an application showing an applicant's association with a certification, contract, or a
 2450 licensee with the department, for the purpose of the office tracking the direct access
 2451 qualified status of the applicant, which expires 180 days after the date on which the
 2452 applicant is no longer associated with a certification, contract, or a licensee with the
 2453 department.
- 2454 (3) The office:
- 2455 (a) shall perform the following duties as part of a background check of an applicant
 2456 before the office grants or denies direct access qualified status to an applicant:
- 2457 (i) check state and regional criminal background databases for the applicant's
 2458 criminal history by:
- 2459 (A) submitting personal identifying information to the bureau for a search; or
 2460 (B) using the applicant's personal identifying information to search state and
 2461 regional criminal background databases as authorized under Section 53-10-108;
- 2462 (ii) submit the applicant's personal identifying information and fingerprints to the
 2463 bureau for a criminal history search of applicable national criminal background
 2464 databases;
- 2465 (iii) search the Division of Child and Family Services' Licensing Information System
 2466 described in Section 80-2-1002;
- 2467 (iv) search the Sex and Kidnap Offender Registry described in Title 77, Chapter 41,
 2468 Sex and Kidnap Offender Registry, or a national sex offender registry for an
 2469 applicant 18 years old or older;
- 2470 ~~[(iv)]~~ (v) if the applicant is ~~[applying to become]~~ associated with a licensee for a
 2471 prospective foster or adoptive parent, search the Division of Child and Family
 2472 Services' Management Information System described in Section 80-2-1001~~[-for:]~~ ;
 2473 ~~[(A) the applicant; and]~~
 2474 ~~[(B) any adult living in the applicant's home;]~~
- 2475 ~~[(v) for an applicant described in Subsection (1)(a)(i)(F), search the Division of~~

2476 Child and Family Services' Management Information System described in Section
2477 80-2-1001;]

2478 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect,
2479 or exploitation database described in Section 26B-6-210;

2480 (vii) search the juvenile court records for substantiated findings of severe child abuse
2481 or neglect described in Section 80-3-404; and

2482 (viii) search the juvenile court arrest, adjudication, and disposition records, as
2483 provided under Section 78A-6-209;

2484 ~~[(b) shall conduct a background check of an applicant for an initial background check~~
2485 ~~upon submission of the information described in Subsection (2);]~~

2486 ~~[(e)]~~ (b) may conduct all or portions of a background check ~~[of an applicant]~~ in
2487 connection with determining whether an applicant is direct access qualified, as
2488 provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah
2489 Administrative Rulemaking Act:

2490 (i) for an annual renewal; or

2491 (ii) when the office determines that reasonable cause exists;

2492 ~~[(d)]~~ (c) may submit an applicant's personal identifying information, including
2493 fingerprints, to the bureau for checking, retaining, and monitoring of state and
2494 national criminal background databases and for notifying the office of new criminal
2495 activity associated with the applicant;

2496 ~~[(e)]~~ (d) shall track the status of an applicant under this section to ensure that the
2497 applicant is not required to duplicate the submission of the applicant's fingerprints if
2498 the applicant ~~[applies for:]~~ is associated with more than one certification, contract, or
2499 licensee with the department;

2500 ~~[(i) more than one license;]~~

2501 ~~[(ii) direct access to a child or a vulnerable adult in more than one human services~~
2502 ~~program; or]~~

2503 ~~[(iii) direct access to a child or a vulnerable adult under a contract with the~~
2504 ~~department;]~~

2505 ~~[(f)]~~ (e) ~~[shall track the status of each individual with direct access to a child or a~~
2506 ~~vulnerable adult and notify the bureau within 90 days after the day on which the~~
2507 ~~license expires or the individual's direct access to a child or a vulnerable adult ceases]~~
2508 shall notify the bureau when a direct access qualified individual has not been
2509 associated with a certification, contract, or licensee with the department for a period

2510 of 180 days;

2511 ~~[(g)]~~ (f) shall adopt measures to strictly limit access to personal identifying information

2512 solely to the individuals responsible for processing and entering the applications for

2513 background checks and to protect the security of the personal identifying information

2514 the office reviews under this Subsection (3);

2515 ~~[(h)]~~ (g) as necessary to comply with the federal requirement to check a state's child

2516 abuse and neglect registry regarding any ~~[individual]~~ applicant working in a

2517 congregate care program, shall:

2518 (i) search the Division of Child and Family Services' Licensing Information System

2519 described in Section 80-2-1002; and

2520 (ii) require the child abuse and neglect registry be checked in each state where an

2521 applicant resided at any time during the five years immediately preceding the day

2522 on which the ~~[applicant submits the information described in Subsection (2)]~~

2523 application is submitted to the office; and

2524 ~~[(i)]~~ (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative

2525 Rulemaking Act, to implement the provisions of this Subsection (3) relating to

2526 background checks.

2527 (4) (a) With the personal identifying information the office submits to the bureau under

2528 Subsection (3), the bureau shall check against state and regional criminal background

2529 databases for the applicant's criminal history.

2530 (b) With the personal identifying information and fingerprints the office submits to the

2531 bureau under Subsection (3), the bureau shall check against national criminal

2532 background databases for the applicant's criminal history.

2533 (c) Upon direction from the office, and with the personal identifying information and

2534 fingerprints the office submits to the bureau under Subsection ~~[(3)(d)]~~ (3)(c), the

2535 bureau shall:

2536 (i) maintain a separate file of the fingerprints for search by future submissions to the

2537 local and regional criminal records databases, including latent prints; and

2538 (ii) monitor state and regional criminal background databases and identify criminal

2539 activity associated with the applicant.

2540 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of

2541 Investigation Next Generation Identification System, to be retained in the Federal

2542 Bureau of Investigation Next Generation Identification System for the purpose of:

2543 (i) being searched by future submissions to the national criminal records databases,

- 2544 including the Federal Bureau of Investigation Next Generation Identification
2545 System and latent prints; and
- 2546 (ii) monitoring national criminal background databases and identifying criminal
2547 activity associated with the applicant.
- 2548 (e) The Bureau shall notify and release to the office all information of criminal activity
2549 associated with the applicant.
- 2550 (f) Upon notice that ~~[an individual's direct access to a child or a vulnerable adult has~~
2551 ~~ceased for 90 days]~~ an individual who has direct access qualified status will no longer
2552 be associated with a certification, contract, or licensee with the department, the
2553 bureau shall:
- 2554 (i) discard and destroy any retained fingerprints; and
- 2555 (ii) notify the Federal Bureau of Investigation when the license has expired or an
2556 individual's direct access to a child or a vulnerable adult has ceased, so that the
2557 Federal Bureau of Investigation will discard and destroy the retained fingerprints
2558 from the Federal Bureau of Investigation Next Generation Identification System.
- 2559 (5) (a) Except as provided in Subsection (5)(b), ~~[after conducting the background check~~
2560 ~~described in Subsections (3) and (4),]~~ the office shall deny ~~[an application to an~~
2561 ~~applicant who, within three years before the day on which the applicant submits~~
2562 ~~information to the office under Subsection (2) for a background check, has been~~
2563 ~~convicted of]~~ direct access qualified status to an applicant who, within three years
2564 from the date on which the office conducts the background check, was convicted of:
- 2565 (i) a felony or misdemeanor involving conduct that constitutes any of the following:
- 2566 (A) an offense identified as domestic violence, lewdness, voyeurism, battery,
2567 cruelty to animals, or bestiality;
- 2568 (B) a violation of any pornography law, including sexual exploitation of a minor
2569 or aggravated sexual exploitation of a minor;
- 2570 (C) sexual solicitation or prostitution;
- 2571 ~~[(D) an offense included in Title 76, Chapter 5, Offenses Against the Individual,~~
2572 ~~Title 76, Chapter 5b, Sexual Exploitation Act, Title 76, Chapter 4, Part 4,~~
2573 ~~Enticement of a Minor, or Title 76, Chapter 7, Offenses Against the Family;]~~
- 2574 (D) a violent offense committed in the presence of a child, as described in Section
2575 76-3-203.10;
- 2576 (E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;
- 2577 (F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;

2578 (G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;
 2579 (H) an offense included in Title 76, Chapter 7, Offenses Against the Family;
 2580 (I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;
 2581 (J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass
 2582 Destruction;
 2583 (K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking
 2584 Injunctions;
 2585 ~~[(E)]~~ (L) aggravated arson, as described in Section 76-6-103;
 2586 ~~[(F)]~~ (M) aggravated burglary, as described in Section 76-6-203;
 2587 (N) aggravated exploitation of prostitution, as described in Section 76-10-1306;
 2588 ~~[(G)]~~ (O) aggravated robbery, as described in Section 76-6-302;
 2589 (P) endangering persons in a human services program, as described in Section
 2590 26B-2-113;
 2591 (Q) failure to report, as described in Section 80-2-609;
 2592 ~~[(H)]~~ (R) identity fraud crime, as described in Section 76-6-1102;
 2593 (S) leaving a child unattended in a motor vehicle, as described in Section
 2594 76-10-2202;
 2595 (T) riot, as described in Section 76-9-101;
 2596 ~~[(H)]~~ (U) sexual battery, as described in Section 76-9-702.1; or
 2597 (V) threatening with or using a dangerous weapon in a fight or quarrel, as
 2598 described in Section 76-10-506; or
 2599 ~~[(J) a violent offense committed in the presence of a child, as described in~~
 2600 ~~Section 76-3-203.10; or]~~
 2601 (ii) a felony or misdemeanor offense committed outside of the state that, if committed
 2602 in the state, would constitute a violation of an offense described in Subsection
 2603 (5)(a)(i).
 2604 (b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a
 2605 peer support provider[; or a mental health professional, [or in a] if the applicant
 2606 provides services in a program that serves only adults with a primary mental
 2607 health diagnosis, with or without a co-occurring substance use disorder.
 2608 (ii) The office shall conduct a comprehensive review of an applicant described in
 2609 Subsection (5)(b)(i) in accordance with ~~[Subsection (6)]~~ Subsection (7).
 2610 (c) The office shall deny direct access qualified status to an applicant if the office finds
 2611 that a court order prohibits the applicant from having direct access to a child or

2612 vulnerable adult.

2613 (6) The office shall conduct a comprehensive review of an applicant's background check if
2614 the applicant:

2615 (a) has a felony or class A misdemeanor conviction [~~for an offense described in~~
2616 ~~Subsection (5) with a date of conviction that is more than three years before the date~~
2617 ~~on which the applicant submits the information described in Subsection (2)] that is~~
2618 more than three years from the date on which the office conducts the background
2619 check, for an offense described in Subsection (5)(a);

2620 (b) has a felony charge or conviction that is no more than 10 years from the date on
2621 which the office conducts the background check for an offense not described in
2622 ~~Subsection [(5) with a date of charge or conviction that is no more than 10 years~~
2623 ~~before the date on which the applicant submits the application under Subsection (2)~~
2624 ~~and no criminal findings or non-criminal findings after the date of conviction] (5)(a);~~

2625 (c) has a felony charge or conviction that is more than 10 years from the date on which
2626 the office conducts the background check, for an offense not described in Subsection
2627 (5)(a), with criminal or non-criminal findings after the date of the felony charge or
2628 conviction;

2629 [~~(e)~~] (d) has a class B misdemeanor or class C misdemeanor conviction [for an offense
2630 described in Subsection (5) with a date of conviction that is more than three years
2631 after, and no more than 10 years before, the date on which the applicant submits the
2632 information described in Subsection (2) and no criminal findings or non-criminal
2633 findings after the date of conviction] that is more than three years and no more than
2634 10 years from the date on which the office conducts the background check for an
2635 offense described in Subsection (5)(a);

2636 (e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10
2637 years from the date on which the office conducts the background check, for an
2638 offense described in Subsection (5)(a), with criminal or non-criminal findings after
2639 the date of conviction;

2640 [~~(d)~~] (f) has a misdemeanor charge or conviction that is no more than three years from
2641 the date on which the office conducts the background check for an offense not
2642 ~~described in Subsection [(5) with a date of conviction that is no more than three years~~
2643 ~~before the date on which the applicant submits information described in Subsection~~
2644 ~~(2) and no criminal findings or non-criminal findings after the date of conviction]~~
2645 (5)(a);

- 2646 (g) has a misdemeanor charge or conviction that is more than three years from the date
2647 on which the office conducts the background check, for an offense not described in
2648 Subsection (5)(a), with criminal or non-criminal findings after the date of charge or
2649 conviction;
- 2650 [(e)] (h) is currently subject to a plea in abeyance or diversion agreement for an offense
2651 described in Subsection [(5)] (5)(a);
- 2652 [(f)] (i) appears on the Sex and Kidnap Offender Registry described in Title 77, Chapter
2653 41, Sex and Kidnap Offender Registry, or a national sex offender registry;
- 2654 [(g)] (j) has a record of an adjudication in juvenile court for an act that, if committed by
2655 an adult, would be a felony or misdemeanor, if the applicant is:
- 2656 (i) under 28 years old; or
- 2657 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is
2658 currently subject to a plea in abeyance or diversion agreement for a felony or a
2659 misdemeanor offense described in Subsection [(5)] (5)(a);
- 2660 [(h)] (k) has a pending charge for an offense described in Subsection [(5)] (5)(a);
- 2661 [(i)] (l) has a listing that occurred no more than 15 years from the date on which the
2662 office conducts the background check in the Division of Child and Family Services'
2663 Licensing Information System described in Section 80-2-1002~~[that occurred no more~~
2664 ~~than 15 years before the date on which the applicant submits the information~~
2665 ~~described in Subsection (2) and no criminal findings or non-criminal findings dated~~
2666 ~~after the date of the listing];~~
- 2667 [(j)] (m) has a listing that occurred more than 15 years from the date on which the office
2668 conducts the background check in the Division of Child and Family Services'
2669 Licensing Information System described in Section 80-2-1002, with criminal or
2670 non-criminal findings after the date of the listing;
- 2671 (n) has a listing that occurred no more than 15 years from the date on which the office
2672 conducts the background check in the Division of Aging and Adult Services'
2673 vulnerable adult abuse, neglect, or exploitation database described in Section
2674 26B-6-210~~[that occurred no more than 15 years before the date on which the~~
2675 ~~applicant submits the information described in Subsection (2) and no criminal~~
2676 ~~findings or non-criminal findings dated after the date of the listing];~~
- 2677 (o) has a listing that occurred more than 15 years from the date on which the office
2678 conducts the background check in the Division of Aging and Adult Services'
2679 vulnerable adult abuse, neglect, or exploitation database described in Section

2680 26B-6-210, with criminal or non-criminal findings after the date of the listing;
 2681 [(k)] (p) has a substantiated finding that occurred no more than 15 years from the date on
 2682 which the office conducts the background check of severe child abuse or neglect
 2683 under Section 80-3-404 or 80-3-504 [that occurred no more than 15 years before the
 2684 date on which the applicant submits the information described in Subsection (2) and
 2685 no criminal findings or non-criminal findings dated after the date of the finding]; or
 2686 (q) has a substantiated finding that occurred more than 15 years from the date on which
 2687 the office conducts the background check of severe child abuse or neglect under
 2688 Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of
 2689 the listing.

2690 [(t) (i) is seeking a position:]
 2691 [(A) as a peer support provider;]
 2692 [(B) as a mental health professional; or]
 2693 [(C) in a program that serves only adults with a primary mental health diagnosis, with
 2694 or without a co-occurring substance use disorder; and]
 2695 [(ii) within three years before the day on which the applicant submits the information
 2696 described in Subsection (2):]
 2697 [(A) has a felony or misdemeanor charge or conviction;]
 2698 [(B) has a listing in the Division of Child and Family Services' Licensing Information
 2699 System described in Section 80-2-1002;]
 2700 [(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse,
 2701 neglect, or exploitation database described in Section 26B-6-210; or]
 2702 [(D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404
 2703 or 80-3-504;]

2704 [(m) (i) (A) is seeking a position in a congregate care program;]
 2705 [(B) is seeking to become a prospective foster or adoptive parent; or]
 2706 [(C) is an applicant described in Subsection (1)(a)(i)(F); and]
 2707 [(ii) (A) has an infraction conviction for conduct that constitutes an offense or violation
 2708 described in Subsection (5)(a)(i)(A) or (B);]
 2709 [(B) has a listing in the Division of Child and Family Services' Licensing Information
 2710 System described in Section 80-2-1002;]
 2711 [(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse,
 2712 neglect, or exploitation database described in Section 26B-6-210;]
 2713 [(D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404

- 2714 ~~or 80-3-504; or]~~
2715 ~~[(E) has a listing on the registry check described in Subsection (13)(a) as having a~~
2716 ~~substantiated or supported finding of a severe type of child abuse or neglect as~~
2717 ~~defined in Section 80-1-102; or]~~
2718 ~~[(n) is seeking to become a prospective foster or adoptive parent and has, or has an~~
2719 ~~adult living with the applicant who has, a conviction, finding, or listing described in~~
2720 ~~Subsection (6)(m)(ii).]~~
2721 (7) (a) The comprehensive review shall include an examination of:
2722 (i) the date of the offense or incident;
2723 (ii) the nature and seriousness of the offense or incident;
2724 (iii) the circumstances under which the offense or incident occurred;
2725 (iv) the age of the perpetrator when the offense or incident occurred;
2726 (v) whether the offense or incident was an isolated or repeated incident;
2727 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable
2728 adult, including:
2729 (A) actual or threatened, nonaccidental physical, mental, or financial harm;
2730 (B) sexual abuse;
2731 (C) sexual exploitation; or
2732 (D) negligent treatment;
2733 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric
2734 treatment received, or additional academic or vocational schooling completed;[
2735 and]
2736 (viii) the applicant's risk of harm to clientele in the program or in the capacity for
2737 which the applicant is applying[-] ; and
2738 (ix) if the background check of an applicant is being conducted for the purpose of
2739 giving direct access qualified status to an applicant seeking a position in a
2740 congregate care program or to become a prospective foster or adoptive parent, any
2741 listing in the Division of Child and Family Services' Management Information
2742 System described in Section 80-2-1001.
2743 (b) At the conclusion of the comprehensive review, the office shall deny [an application
2744 to an applicant if the office finds:] direct access qualified status to an applicant if the
2745 office finds the approval would likely create a risk of harm to a child or vulnerable
2746 adult.
2747 [(i) that approval would likely create a risk of harm to a child or a vulnerable adult;

- 2748 or]
- 2749 [(ii) an individual is prohibited from having direct access to a child or vulnerable
- 2750 adult by court order.]
- 2751 (8) The office shall ~~[approve an application]~~ grant direct access qualified status to an
- 2752 applicant who is not denied under this section.
- 2753 (9) (a) The office may conditionally ~~[approve an application of]~~ grant direct access
- 2754 qualified status to an applicant, for a maximum of 60 days after the day on which the
- 2755 office sends written notice~~[to the applicant under Subsection (11)]~~, without requiring
- 2756 that the applicant be directly supervised, if the office:
- 2757 (i) is awaiting the results of the criminal history search of national criminal
- 2758 background databases; and
- 2759 (ii) would otherwise ~~[approve an application of]~~ grant direct access qualified status to
- 2760 the applicant under this section.
- 2761 (b) The office may conditionally ~~[approve an application of]~~ grant direct access qualified
- 2762 status to an applicant, for a maximum of one year after the day on which the office
- 2763 sends written notice ~~[to the applicant under Subsection (11)]~~, without requiring that
- 2764 the applicant be directly supervised if the office:
- 2765 (i) is awaiting the results of an out-of-state registry for providers other than foster and
- 2766 adoptive parents; and
- 2767 (ii) would otherwise ~~[approve an application of]~~ grant direct access qualified status to
- 2768 the applicant under this section.
- 2769 (c) Upon receiving the results of the criminal history search of a national criminal
- 2770 background database, the office shall ~~[approve or deny the application of]~~ grant or
- 2771 deny direct access qualified status to the applicant in accordance with this section.
- 2772 (10) (a) Each time an applicant is associated with a licensee, the department shall review
- 2773 the current status of the applicant's background check to ensure the applicant is still
- 2774 eligible for direct access qualified status in accordance with this section.
- 2775 ~~[(a)]~~ (b) A licensee~~[or department contractor]~~ may not permit an individual to have
- 2776 direct access to a child or a vulnerable adult without being directly supervised unless:
- 2777 ~~[(i) the individual is associated with the licensee or department contractor and the~~
- 2778 ~~department conducts a background screening in accordance with this section;]~~
- 2779 ~~[(ii)]~~ (i) the individual is the parent or guardian of the child, or the guardian of the
- 2780 vulnerable adult;
- 2781 ~~[(iii)]~~ (ii) the individual is approved by the parent or guardian of the child, or the

2782 guardian of the vulnerable adult, to have direct access to the child or the
2783 vulnerable adult;

2784 ~~[(iv)]~~ (iii) the individual is only permitted to have direct access to a vulnerable adult
2785 who voluntarily invites the individual to visit; or

2786 ~~[(v)]~~ (iv) the individual only provides incidental care for a foster child on behalf of a
2787 foster parent who has used reasonable and prudent judgment to select the
2788 individual to provide the incidental care for the foster child.

2789 ~~[(b)]~~ (c) Notwithstanding any other provision of this section, an ~~[individual for whom the~~
2790 ~~office denies an application may not]~~ applicant who is denied direct access qualified
2791 status shall not have direct access to a child or vulnerable adult unless the office [
2792 ~~approves a subsequent application by the individual]~~ grants direct access qualified
2793 status to the applicant through a subsequent application in accordance with this
2794 section.

2795 ~~[(11) (a) Within 30 days after the day on which the applicant submits the information~~
2796 ~~described in Subsection (2), the office shall notify the applicant of any potentially~~
2797 ~~disqualifying criminal findings or non-criminal findings.]~~

2798 ~~[(b) If the notice under Subsection (11)(a) states that the applicant's application is denied,~~
2799 ~~the notice shall further advise the applicant that the applicant may, under Subsection~~
2800 ~~26B-2-111(2), request a hearing in the department's Office of Administrative Hearings,~~
2801 ~~to challenge the office's decision.]~~

2802 ~~[(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the~~
2803 ~~office shall make rules, consistent with this part:]~~

2804 ~~[(i) defining procedures for the challenge of the office's background check decision~~
2805 ~~described in Subsection (11)(b); and]~~

2806 ~~[(ii) expediting the process for renewal of a license under the requirements of this section~~
2807 ~~and other applicable sections.]~~

2808 (11) If the office denies direct access qualified status to an applicant, the applicant may
2809 request a hearing in the department's Office of Administrative Hearings to challenge the
2810 office's decision.

2811 ~~[(12) (a) An individual or a department contractor who provides services in an adults only~~
2812 ~~substance use disorder program, as defined by rule made in accordance with Title 63G,~~
2813 ~~Chapter 3, Utah Administrative Rulemaking Act, is exempt from this section]~~

2814 (12) (a) This Subsection (12) applies to an applicant associated with a certification,
2815 contract, or licensee serving adults only.

- 2816 (b) A program director or a member, as defined in Section 26B-2-105, of the licensee
2817 shall comply with this section.
- 2818 (c) The office shall conduct a comprehensive review for an applicant if:
- 2819 (i) the applicant is seeking a position:
- 2820 (A) as a peer support provider;
- 2821 (B) as a mental health professional; or
- 2822 (C) in a program that serves only adults with a primary mental health diagnosis,
2823 with or without a co-occurring substance use disorder; and
- 2824 (ii) within three years from the date on which the office conducts the background
2825 check, the applicant has a felony or misdemeanor charge or conviction or a
2826 non-criminal finding.
- 2827 ~~[(b) The exemption described in Subsection (12)(a) does not extend to a program director~~
2828 ~~or a member, as defined by Section 26B-2-105, of the program]~~
- 2829 ~~[(13) (a) Except as provided in Subsection (13)(b), in addition to the other requirements of~~
2830 ~~this section, if the background check of an applicant is being conducted for the purpose~~
2831 ~~of giving clearance status to an applicant seeking a position in a congregate care~~
2832 ~~program or an applicant seeking to become a prospective foster or adoptive parent, the~~
2833 ~~office shall:]~~
- 2834 (13) (a) This Subsection (13) applies to an applicant seeking a position in a congregate
2835 care program, an applicant seeking to provide a prospective foster home, an applicant
2836 seeking to provide a prospective adoptive home, and each adult living in the home of
2837 the prospective foster or prospective adoptive home.
- 2838 (b) As federally required, the office shall:
- 2839 (i) check the child abuse and neglect registry in each state where each applicant
2840 resided in the five years immediately preceding the day on which the applicant
2841 applied to be a foster or adoptive parent, to determine whether the prospective
2842 foster or adoptive parent is listed in the registry as having a substantiated or
2843 supported finding of child abuse or neglect; and
- 2844 (ii) except for applicants seeking a position in a congregate care program, check the
2845 child abuse and neglect registry in each state where each adult living in the home
2846 of the [applicant described in Subsection (13)(a)(i)] prospective foster or adoptive
2847 home resided in the five years immediately preceding the day on which the
2848 applicant applied to be a foster or adoptive parent, to determine whether the adult
2849 is listed in the registry as having a substantiated or supported finding of child

2850 abuse or neglect.

2851 ~~[(b)]~~ (c) The requirements described in Subsection ~~[(13)(a)]~~ (13)(b) do not apply to the

2852 extent that:

2853 (i) federal law or rule permits otherwise; or

2854 (ii) the requirements would prohibit the Division of Child and Family Services or a

2855 court from placing a child with:

2856 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

2857 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302,

2858 or 80-3-303, pending completion of the background check described in [

2859 ~~Subsection (5)]~~ Subsections (5), (6), and (7).

2860 ~~[(e)]~~ (d) Notwithstanding Subsections (5) through (10), the office shall deny ~~[a clearance~~

2861 ~~to an applicant seeking a position in a congregate care program or an applicant to~~

2862 ~~become a prospective foster or adoptive parent if the applicant has been convicted of]~~

2863 direct access qualified status if the applicant has been convicted of:

2864 (i) a felony involving conduct that constitutes any of the following:

2865 (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

2866 (B) commission of domestic violence in the presence of a child, as described in

2867 Section 76-5-114;

2868 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

2869 (D) intentional aggravated abuse of a vulnerable adult, as described in Section

2870 76-5-111;

2871 ~~[(D)]~~ (E) endangerment of a child or vulnerable adult, as described in Section

2872 76-5-112.5;

2873 ~~[(E)]~~ (F) aggravated murder, as described in Section 76-5-202;

2874 ~~[(F)]~~ (G) murder, as described in Section 76-5-203;

2875 ~~[(G)]~~ (H) manslaughter, as described in Section 76-5-205;

2876 ~~[(H)]~~ (I) child abuse homicide, as described in Section 76-5-208;

2877 ~~[(I)]~~ (J) homicide by assault, as described in Section 76-5-209;

2878 ~~[(J)]~~ (K) kidnapping, as described in Section 76-5-301;

2879 ~~[(K)]~~ (L) child kidnapping, as described in Section 76-5-301.1;

2880 ~~[(L)]~~ (M) aggravated kidnapping, as described in Section 76-5-302;

2881 ~~[(M)]~~ (N) human trafficking of a child, as described in Section 76-5-308.5;

2882 ~~[(N)]~~ (O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

2883 ~~[(O)]~~ (P) sexual exploitation of a minor, as described in Title 76, Chapter 5b,

Sexual Exploitation Act;
 [(P)] (Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
 [(Q)] (R) aggravated arson, as described in Section 76-6-103;
 [(R)] (S) aggravated burglary, as described in Section 76-6-203;
 [(S)] (T) aggravated robbery, as described in Section 76-6-302;
 [(T)] (U) lewdness involving a child, as described in Section 76-9-702.5;
 [(U)] (V) incest, as described in Section 76-7-102; or
 [(V)] (W) domestic violence, as described in Section 77-36-1; or
 (ii) an offense committed outside the state that, if committed in the state, would
 constitute a violation of an offense described in Subsection [(13)(e)(i)] (13)(d)(i).
 [(d)] (e) Notwithstanding Subsections (5) through (10), the office shall deny ~~a license or~~
~~license renewal to an individual seeking a position in a congregate care program or a~~
~~prospective foster or adoptive parent if, within the five years immediately preceding~~
~~the day on which the individual's application or license would otherwise be approved,~~
~~the individual]~~ direct access qualified status to an applicant if, within the five years
from the date on which the office conducts the background check, the applicant was
 convicted of a felony involving conduct that constitutes a violation of any of the
 following:
 (i) aggravated assault, as described in Section 76-5-103;
 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
 (iii) mayhem, as described in Section 76-5-105;
 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances
 Act;
 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance
 Precursor Act; or
 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
 [(e)] (f) In addition to the circumstances described in Subsection (6), the office shall
 conduct ~~[the]~~ a comprehensive review of an applicant's background check under this
 section if ~~[the registry check described in Subsection (13)(a) indicates that the~~
~~individual is listed in a child abuse and neglect registry of another state as having a~~
~~substantiated or supported finding of a severe type of child abuse or neglect as~~
~~defined in Section 80-1-102.]~~ the applicant:

- 2918 (i) has an offense described in Subsection (5)(a);
- 2919 (ii) has an infraction conviction entered on a date that is no more than three years
- 2920 before the date on which the office conducts the background check;
- 2921 (iii) has a listing in the Division of Child and Family Services' Licensing Information
- 2922 System described in Section 80-2-1002;
- 2923 (iv) has a listing in the Division of Aging and Adult Services' vulnerable adult,
- 2924 neglect, or exploitation database described in Section 26B-6-210;
- 2925 (v) has a substantiated finding of severe child abuse or neglect under Section
- 2926 80-3-404 or 80-3-504; or
- 2927 (vi) has a listing on the registry check described in Subsection (13)(b) as having a
- 2928 substantiated or supported finding of a severe type of child abuse or neglect, as
- 2929 defined in Section 80-1-102.

2930 (14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 2931 office may make rules, consistent with this part, to:

- 2932 (a) establish procedures for, and information to be examined in, the comprehensive
- 2933 review described in Subsections [~~(6) and (7)~~] (6), (7), and (13); and
- 2934 (b) determine whether to consider an offense or incident that occurred while an
- 2935 individual was in the custody of the Division of Child and Family Services or the [
- 2936 ~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services
- 2937 for purposes of [approval or denial of an application for a prospective foster or
- 2938 adoptive parent] granting or denying direct access qualified status to an applicant.

2939 Section 26. Section **26B-2-122** is amended to read:

2940 **26B-2-122 (Effective 05/01/24). Access to vulnerable adult abuse and neglect**
 2941 **information.**

2942 (1) For purposes of this section:

- 2943 (a) "Direct service worker" means the same as that term is defined in Section 26B-6-401.
- 2944 (b) "Personal care attendant" means the same as that term is defined in Section
- 2945 26B-6-401.

2946 (2) With respect to a licensee, a direct service worker, or a personal care attendant, the
 2947 department may access the database created by Section 26B-6-210 for the purpose of:

- 2948 (a) (i) determining whether a person associated with a licensee, with direct access to
- 2949 vulnerable adults, has a supported or substantiated finding of:
- 2950 (A) abuse;
- 2951 (B) neglect; or

- 2952 (C) exploitation; and
- 2953 (ii) informing a licensee that a person associated with the licensee has a supported or
- 2954 substantiated finding of:
- 2955 (A) abuse;
- 2956 (B) neglect; or
- 2957 (C) exploitation;
- 2958 (b) (i) determining whether a direct service worker has a supported or substantiated
- 2959 finding of:
- 2960 (A) abuse;
- 2961 (B) neglect; or
- 2962 (C) exploitation; and
- 2963 (ii) informing a direct service worker or the direct service worker's employer that the
- 2964 direct service worker has a supported or substantiated finding of:
- 2965 (A) abuse;
- 2966 (B) neglect; or
- 2967 (C) exploitation; or
- 2968 (c) (i) determining whether a personal care attendant has a supported or substantiated
- 2969 finding of:
- 2970 (A) abuse;
- 2971 (B) neglect; or
- 2972 (C) exploitation; and
- 2973 (ii) informing a person described in Subsections 26B-6-401(9)(a)(i) through (iv) that
- 2974 a personal care attendant has a supported or substantiated finding of:
- 2975 (A) abuse;
- 2976 (B) neglect; or
- 2977 (C) exploitation.
- 2978 (3) The department shall receive and process personal identifying information under
- 2979 Subsection [~~26B-2-120(1)~~] 26B-2-120(2) for the purposes described in Subsection (2).
- 2980 (4) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative
- 2981 Rulemaking Act, consistent with this part and Chapter 6, Part 2, Abuse, Neglect, or
- 2982 Exploitation of a Vulnerable Adult, defining the circumstances under which a person
- 2983 may have direct access or provide services to vulnerable adults when the person is listed
- 2984 in the statewide database of the Division of Aging and Adult Services created by Section
- 2985 26B-6-210 as having a supported or substantiated finding of abuse, neglect, or

2986 exploitation.

2987 Section 27. Section **26B-2-128** is amended to read:

2988 **26B-2-128 (Effective 05/01/24). Numerical limit of foster children in a foster**
2989 **home.**

2990 [~~(1) Except as provided in Subsection (2) or (3), no more than:~~]

2991 [~~(a) four foster children may reside in the foster home of a licensed foster parent; or]~~

2992 [~~(b) three foster children may reside in the foster home of a certified foster parent.~~]

2993 (1) (a) No more than four foster children may reside in the foster home of a licensed
2994 foster parent.

2995 (b) No more than three foster children may reside in the foster home of a certified foster
2996 parent.

2997 [~~(2) When placing a sibling group into a foster home, the limits in Subsection (1) may be~~
2998 ~~exceeded if:~~]

2999 [~~(a) no other foster children reside in the foster home;~~]

3000 [~~(b) only one other foster child resides in the foster home at the time of a sibling group's~~
3001 ~~placement into the foster home; or]~~

3002 [~~(c) a sibling group re-enters foster care and is placed into the foster home where the~~
3003 ~~sibling group previously resided.~~]

3004 [~~(3)~~] (2) When placing a child into a foster home, the limits [in] under Subsection (1) may be
3005 exceeded:

3006 (a) to place a child into a foster home where a sibling of the child currently resides; or

3007 (b) to place a child in a foster home where the child previously resided.

3008 (3) The limits under Subsection (1) may be exceeded for:

3009 (a) placement of a sibling group in a foster home with no more than one other foster
3010 child placement;

3011 (b) placement of a child or sibling group in a foster home where the child or sibling
3012 group previously resided; or

3013 (c) placement of a child in a foster home where a sibling currently resides.

3014 Section 28. Section **26B-2-201** is amended to read:

3015 **26B-2-201 (Effective 05/01/24). Definitions.**

3016 As used in this part:

3017 (1) (a) "Abortion clinic" means a type I abortion clinic or a type II abortion clinic.

3018 (b) "Abortion clinic" does not mean a clinic that meets the definition of hospital under
3019 Section 76-7-301 or Section ~~[76-71-101]~~ 76-7a-101.

- 3020 (2) "Activities of daily living" means essential activities including:
- 3021 (a) dressing;
- 3022 (b) eating;
- 3023 (c) grooming;
- 3024 (d) bathing;
- 3025 (e) toileting;
- 3026 (f) ambulation;
- 3027 (g) transferring; and
- 3028 (h) self-administration of medication.
- 3029 (3) "Ambulatory surgical facility" means a freestanding facility, which provides surgical
- 3030 services to patients not requiring hospitalization.
- 3031 (4) "Assistance with activities of daily living" means providing of or arranging for the
- 3032 provision of assistance with activities of daily living.
- 3033 (5) (a) "Assisted living facility" means:
- 3034 (i) a type I assisted living facility, which is a residential facility that provides
- 3035 assistance with activities of daily living and social care to two or more residents
- 3036 who:
- 3037 (A) require protected living arrangements; and
- 3038 (B) are capable of achieving mobility sufficient to exit the facility without the
- 3039 assistance of another person; and
- 3040 (ii) a type II assisted living facility, which is a residential facility with a home-like
- 3041 setting that provides an array of coordinated supportive personal and health care
- 3042 services available 24 hours per day to residents who have been assessed under
- 3043 department rule to need any of these services.
- 3044 (b) Each resident in a type I or type II assisted living facility shall have a service plan
- 3045 based on the assessment, which may include:
- 3046 (i) specified services of intermittent nursing care;
- 3047 (ii) administration of medication; and
- 3048 (iii) support services promoting residents' independence and self-sufficiency.
- 3049 (6) "Birthing center" means a facility that:
- 3050 (a) receives maternal clients and provides care during pregnancy, delivery, and
- 3051 immediately after delivery; and
- 3052 (b) (i) is freestanding; or
- 3053 (ii) is not freestanding, but meets the requirements for an alongside midwifery unit

- 3054 described in Subsection 26B-2-228(7).
- 3055 (7) "Committee" means the Health Facility Committee created in Section 26B-1-204.
- 3056 (8) "Consumer" means any person not primarily engaged in the provision of health care to
3057 individuals or in the administration of facilities or institutions in which such care is
3058 provided and who does not hold a fiduciary position, or have a fiduciary interest in any
3059 entity involved in the provision of health care, and does not receive, either directly or
3060 through his spouse, more than 1/10 of his gross income from any entity or activity
3061 relating to health care.
- 3062 (9) "End stage renal disease facility" means a facility which furnishes staff-assisted kidney
3063 dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.
- 3064 (10) "Freestanding" means existing independently or physically separated from another
3065 health care facility by fire walls and doors and administrated by separate staff with
3066 separate records.
- 3067 (11) "General acute hospital" means a facility which provides diagnostic, therapeutic, and
3068 rehabilitative services to both inpatients and outpatients by or under the supervision of
3069 physicians.
- 3070 (12) "Governmental unit" means the state, or any county, municipality, or other political
3071 subdivision or any department, division, board, or agency of the state, a county,
3072 municipality, or other political subdivision.
- 3073 (13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home
3074 health agencies, hospices, nursing care facilities, residential-assisted living facilities,
3075 birthing centers, ambulatory surgical facilities, small health care facilities, abortion
3076 clinics, a clinic that meets the definition of hospital under Section 76-7-301 or [
3077 ~~76-71-201~~] 76-7a-101, facilities owned or operated by health maintenance
3078 organizations, end stage renal disease facilities, and any other health care facility
3079 which the committee designates by rule.
- 3080 (b) "Health care facility" does not include the offices of private physicians or dentists,
3081 whether for individual or group practice, except that it does include an abortion clinic.
- 3082 (14) "Health maintenance organization" means an organization, organized under the laws of
3083 any state which:
- 3084 (a) is a qualified health maintenance organization under 42 U.S.C. Sec. 300e-9; or
- 3085 (b) (i) provides or otherwise makes available to enrolled participants at least the
3086 following basic health care services: usual physician services, hospitalization,
3087 laboratory, x-ray, emergency, and preventive services and out-of-area coverage;

- 3088 (ii) is compensated, except for copayments, for the provision of the basic health
3089 services listed in Subsection (14)(b)(i) to enrolled participants by a payment
3090 which is paid on a periodic basis without regard to the date the health services are
3091 provided and which is fixed without regard to the frequency, extent, or kind of
3092 health services actually provided; and
- 3093 (iii) provides physicians' services primarily directly through physicians who are
3094 either employees or partners of such organizations, or through arrangements with
3095 individual physicians or one or more groups of physicians organized on a group
3096 practice or individual practice basis.
- 3097 (15) (a) "Home health agency" means an agency, organization, or facility or a
3098 subdivision of an agency, organization, or facility which employs two or more direct
3099 care staff persons who provide licensed nursing services, therapeutic services of
3100 physical therapy, speech therapy, occupational therapy, medical social services, or
3101 home health aide services on a visiting basis.
- 3102 (b) "Home health agency" does not mean an individual who provides services under the
3103 authority of a private license.
- 3104 (16) "Hospice" means a program of care for the terminally ill and their families which
3105 occurs in a home or in a health care facility and which provides medical, palliative,
3106 psychological, spiritual, and supportive care and treatment.
- 3107 (17) "Nursing care facility" means a health care facility, other than a general acute or
3108 specialty hospital, constructed, licensed, and operated to provide patient living
3109 accommodations, 24-hour staff availability, and at least two of the following patient
3110 services:
- 3111 (a) a selection of patient care services, under the direction and supervision of a registered
3112 nurse, ranging from continuous medical, skilled nursing, psychological, or other
3113 professional therapies to intermittent health-related or paraprofessional personal care
3114 services;
- 3115 (b) a structured, supportive social living environment based on a professionally designed
3116 and supervised treatment plan, oriented to the individual's habilitation or
3117 rehabilitation needs; or
- 3118 (c) a supervised living environment that provides support, training, or assistance with
3119 individual activities of daily living.
- 3120 (18) "Person" means any individual, firm, partnership, corporation, company, association,
3121 or joint stock association, and the legal successor thereof.

- 3122 (19) "Resident" means a person 21 years old or older who:
3123 (a) as a result of physical or mental limitations or age requires or requests services
3124 provided in an assisted living facility; and
3125 (b) does not require intensive medical or nursing services as provided in a hospital or
3126 nursing care facility.
- 3127 (20) "Small health care facility" means a four to 16 bed facility that provides licensed
3128 health care programs and services to residents.
- 3129 (21) "Specialty hospital" means a facility which provides specialized diagnostic,
3130 therapeutic, or rehabilitative services in the recognized specialty or specialties for which
3131 the hospital is licensed.
- 3132 (22) "Substantial compliance" means in a department survey of a licensee, the department
3133 determines there is an absence of deficiencies which would harm the physical health,
3134 mental health, safety, or welfare of patients or residents of a licensee.
- 3135 (23) "Type I abortion clinic" means a facility, including a physician's office, but not
3136 including a general acute or specialty hospital, that:
3137 (a) performs abortions, as defined in Section 76-7-301, during the first trimester of
3138 pregnancy; and
3139 (b) does not perform abortions, as defined in Section 76-7-301, after the first trimester of
3140 pregnancy.
- 3141 (24) "Type II abortion clinic" means a facility, including a physician's office, but not
3142 including a general acute or specialty hospital, that:
3143 (a) performs abortions, as defined in Section 76-7-301, after the first trimester of
3144 pregnancy; or
3145 (b) performs abortions, as defined in Section 76-7-301, during the first trimester of
3146 pregnancy and after the first trimester of pregnancy.
- 3147 Section 29. Section **26B-2-202** is amended to read:
3148 **26B-2-202 (Effective 05/01/24). Duties of department.**
- 3149 (1) The department shall:
3150 (a) enforce rules established pursuant to this part;
3151 (b) authorize an agent of the department to conduct inspections of health care facilities
3152 pursuant to this part;
3153 (c) collect information authorized by the committee that may be necessary to ensure that
3154 adequate health care facilities are available to the public;
3155 (d) collect and credit fees for licenses as free revenue;

- 3156 (e) collect and credit fees for conducting plan reviews as dedicated credits;
3157 (f) (i) collect and credit fees for conducting [clearance] certification for direct patient
3158 access under Sections 26B-2-239 and 26B-2-240; and
3159 (ii) beginning July 1, 2012:
3160 (A) up to \$105,000 of the fees collected under Subsection (1)(f)(i) are dedicated
3161 credits; and
3162 (B) the fees collected for background checks under Subsection 26B-2-240(6) and
3163 Subsection 26B-2-241(4) shall be transferred to the Department of Public
3164 Safety to reimburse the Department of Public Safety for its costs in conducting
3165 the federal background checks;
3166 (g) designate an executive secretary from within the department to assist the committee
3167 in carrying out its powers and responsibilities;
3168 (h) establish reasonable standards for criminal background checks by public and private
3169 entities;
3170 (i) recognize those public and private entities that meet the standards established
3171 pursuant to Subsection (1)(h); and
3172 (j) provide necessary administrative and staff support to the committee.
3173 (2) The department may:
3174 (a) exercise all incidental powers necessary to carry out the purposes of this part;
3175 (b) review architectural plans and specifications of proposed health care facilities or
3176 renovations of health care facilities to ensure that the plans and specifications
3177 conform to rules established by the committee; and
3178 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3179 make rules as necessary to implement the provisions of this part.
3180 Section 30. Section **26B-2-204** is amended to read:
3181 **26B-2-204 (Effective 05/01/24). Licensing of an abortion clinic -- Rulemaking**
3182 **authority -- Fee -- Licensing of a clinic meeting the definition of hospital.**
3183 (1) (a) No abortion clinic may operate in the state on or after January 1, 2024, or the last
3184 valid date of an abortion clinic license issued under the requirements of this section,
3185 whichever date is later.
3186 (b) Notwithstanding Subsection (1)(a), a licensed abortion clinic may not perform an
3187 abortion in violation of any provision of state law.
3188 (2) The state may not issue a license for an abortion clinic after May 2, 2023.
3189 (3) For any license for an abortion clinic that is issued under this section:

- 3190 (a) A type I abortion clinic may not operate in the state without a license issued by the
3191 department to operate a type I abortion clinic.
- 3192 (b) A type II abortion clinic may not operate in the state without a license issued by the
3193 department to operate a type II abortion clinic.
- 3194 (c) The department shall make rules establishing minimum health, safety, sanitary, and
3195 recordkeeping requirements for:
- 3196 (i) a type I abortion clinic; and
3197 (ii) a type II abortion clinic.
- 3198 (d) To receive and maintain a license described in this section, an abortion clinic shall:
- 3199 (i) apply for a license on a form prescribed by the department;
3200 (ii) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping
3201 requirements established ~~[under]~~ under Subsection (3) that relate to the type of
3202 abortion clinic licensed;
- 3203 (iii) comply with the recordkeeping and reporting requirements of Section 76-7-313;
3204 (iv) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion, and Title
3205 76, Chapter 7a, Abortion Prohibition;
- 3206 (v) pay the annual licensing fee; and
3207 (vi) cooperate with inspections conducted by the department.
- 3208 (e) The department shall, at least twice per year, inspect each abortion clinic in the state
3209 to ensure that the abortion clinic is complying with all statutory and licensing
3210 requirements relating to the abortion clinic. At least one of the inspections shall be
3211 made without providing notice to the abortion clinic.
- 3212 (f) The department shall charge an annual license fee, set by the department in
3213 accordance with the procedures described in Section 63J-1-504, to an abortion clinic
3214 in an amount that will pay for the cost of the licensing requirements described in this
3215 section and the cost of inspecting abortion clinics.
- 3216 (g) The department shall deposit the licensing fees described in this section in the
3217 General Fund as a dedicated credit to be used solely to pay for the cost of the
3218 licensing requirements described in this section and the cost of inspecting abortion
3219 clinics.
- 3220 (4) (a) Notwithstanding any other provision of this section, the department may license a
3221 clinic that meets the definition of hospital under Section 76-7-301 or Section
3222 76-7a-101.
- 3223 (b) A clinic described in Subsection (4)(a) is not defined as an abortion clinic.

Section 31. Section **26B-2-238** is amended to read:

26B-2-238 (Effective 05/01/24). Definitions for Sections 26B-2-238 through 26B-2-241.

As used in this section and Sections 26B-2-239, 26B-2-240, and 26B-2-241:

- (1) ["Clearance"] "Certification for direct patient access" means approval by the department under Section 26B-2-239 for an individual to have direct patient access.
- (2) "Covered body" means a covered provider, covered contractor, or covered employer.
- (3) "Covered contractor" means a person that supplies covered individuals, by contract, to a covered employer or covered provider.
- (4) "Covered employer" means an individual who:
 - (a) engages a covered individual to provide services in a private residence to:
 - (i) an aged individual, as defined by department rule; or
 - (ii) a disabled individual, as defined by department rule;
 - (b) is not a covered provider; and
 - (c) is not a licensed health care facility within the state.
- (5) "Covered individual":
 - (a) means an individual:
 - (i) whom a covered body engages; and
 - (ii) who may have direct patient access;
 - (b) includes:
 - (i) a nursing assistant, as defined by department rule;
 - (ii) a personal care aide, as defined by department rule;
 - (iii) an individual licensed to engage in the practice of nursing under Title 58, Chapter 31b, Nurse Practice Act;
 - (iv) a provider of medical, therapeutic, or social services, including a provider of laboratory and radiology services;
 - (v) an executive;
 - (vi) administrative staff, including a manager or other administrator;
 - (vii) dietary and food service staff;
 - (viii) housekeeping and maintenance staff; and
 - (ix) any other individual, as defined by department rule, who has direct patient access; and
 - (c) does not include a student, as defined by department rule, directly supervised by a member of the staff of the covered body or the student's instructor.

- 3258 (6) "Covered provider" means:
- 3259 (a) an end stage renal disease facility;
- 3260 (b) a long-term care hospital;
- 3261 (c) a nursing care facility;
- 3262 (d) a small health care facility;
- 3263 (e) an assisted living facility;
- 3264 (f) a hospice;
- 3265 (g) a home health agency; or
- 3266 (h) a personal care agency.
- 3267 (7) "Direct patient access" means for an individual to be in a position where the individual
- 3268 could, in relation to a patient or resident of the covered body who engages the individual:
- 3269 (a) cause physical or mental harm;
- 3270 (b) commit theft; or
- 3271 (c) view medical or financial records.
- 3272 (8) "Engage" means to obtain one's services:
- 3273 (a) by employment;
- 3274 (b) by contract;
- 3275 (c) as a volunteer; or
- 3276 (d) by other arrangement.
- 3277 (9) "Long-term care hospital":
- 3278 (a) means a hospital that is certified to provide long-term care services under the
- 3279 provisions of 42 U.S.C. Sec. 1395tt; and
- 3280 (b) does not include a critical access hospital, designated under 42 U.S.C. Sec.
- 3281 1395i-4(c)(2).
- 3282 (10) "Patient" means an individual who receives health care services from one of the
- 3283 following covered providers:
- 3284 (a) an end stage renal disease facility;
- 3285 (b) a long-term care hospital;
- 3286 (c) a hospice;
- 3287 (d) a home health agency; or
- 3288 (e) a personal care agency.
- 3289 (11) "Personal care agency" means a health care facility defined by department rule.
- 3290 (12) "Resident" means an individual who receives health care services from one of the
- 3291 following covered providers:

- 3292 (a) a nursing care facility;
- 3293 (b) a small health care facility;
- 3294 (c) an assisted living facility; or
- 3295 (d) a hospice that provides living quarters as part of its services.
- 3296 (13) "Residential setting" means a place provided by a covered provider:
- 3297 (a) for residents to live as part of the services provided by the covered provider; and
- 3298 (b) where an individual who is not a resident also lives.
- 3299 (14) "Volunteer" means an individual, as defined by department rule, who provides services
- 3300 without pay or other compensation.
- 3301 Section 32. Section **26B-2-239** is amended to read:
- 3302 **26B-2-239 (Effective 05/01/24). Certification for direct patient access required --**
- 3303 **Application by covered providers, covered contractors, and individuals.**
- 3304 (1) The definitions in Section 26B-2-238 apply to this section.
- 3305 (2) (a) A covered provider may engage a covered individual only if the individual has [
- 3306 clearance] certification for direct patient access.
- 3307 (b) A covered contractor may supply a covered individual to a covered employer or
- 3308 covered provider only if the individual has [clearance] certification for direct patient
- 3309 access.
- 3310 (c) A covered employer may engage a covered individual who does not have [clearance]
- 3311 certification for direct patient access.
- 3312 (3) (a) Notwithstanding Subsections (2)(a) and (b), if a covered individual does not have [
- 3313 clearance] certification for direct patient access, a covered provider may engage the
- 3314 individual or a covered contractor may supply the individual to a covered provider or
- 3315 covered employer:
- 3316 (i) under circumstances specified by department rule; and
- 3317 (ii) only while an application for [clearance] certification for direct patient access for
- 3318 the individual is pending.
- 3319 (b) For purposes of Subsection (3)(a), an application is pending if the following have
- 3320 been submitted to the department for the individual:
- 3321 (i) an application for [clearance] certification for direct patient access;
- 3322 (ii) the personal identification information specified by the department under
- 3323 Subsection 26B-2-240(4)(b); and
- 3324 (iii) any fees established by the department under Subsection 26B-2-240(9).
- 3325 (4) (a) As provided in Subsection (4)(b), each covered provider and covered contractor

operating in this state shall:

- (i) collect from each covered individual the contractor engages, and each individual the contractor intends to engage as a covered individual, the personal identification information specified by the department under Subsection 26B-2-240(4)(b); and

- (ii) submit to the department an application for [clearance] certification for direct patient access for the individual, including:

- (A) the personal identification information; and

- (B) any fees established by the department under Subsection 26B-2-240(9).

- (b) [Clearance] Certification for direct patient access granted for an individual pursuant to an application submitted by a covered provider or a covered contractor is valid [~~until the later of:~~] for 180 days after the date on which the engaged employment lapses.

- (i) two years after the individual is no longer engaged as a covered individual; or

- (ii) the covered provider's or covered contractor's next license renewal date.

- (5) (a) A covered provider that provides services in a residential setting shall:

- (i) collect the personal identification information specified by the department under Subsection 26B-2-240(4)(b) for each individual 12 years old or older, other than a resident, who resides in the residential setting; and

- (ii) submit to the department an application for [clearance] certification for direct patient access for the individual, including:

- (A) the personal identification information; and

- (B) any fees established by the department under Subsection 26B-2-240(9).

- (b) A covered provider that provides services in a residential setting may allow an individual 12 years old or older, other than a resident, to reside in the residential setting only if the individual has [clearance] certification for direct patient access.

- (6) (a) An individual may apply for [clearance] certification for direct patient access by submitting to the department an application, including:

- (i) the personal identification information specified by the department under Subsection 26B-2-240(4)(b); and

- (ii) any fees established by the department under Subsection 26B-2-240(9).

- (b) [Clearance] Certification for direct patient access granted to an individual who makes application under Subsection (6)(a) is valid for [two years] 180 days after the date the engaged employment lapses unless the department determines otherwise based on the

3360 department's ongoing review under Subsection 26B-2-240(4)(a).

3361 Section 33. Section **26B-2-240** is amended to read:

3362 **26B-2-240 (Effective 05/01/24). Department authorized to grant, deny, or revoke**
3363 **certification for direct patient access -- Department may limit direct patient**
3364 **access -- Certification for direct patient access.**

3365 (1) The definitions in Section 26B-2-238 apply to this section.

3366 (2) (a) As provided in this section, the department may grant, deny, or revoke [clearance]
3367 certification for direct patient access for an individual, including a covered individual.

3368 (b) The department may limit the circumstances under which a covered individual
3369 granted [clearance] certification for direct patient access may have direct patient
3370 access, based on the relationship factors under Subsection (4) and other mitigating
3371 factors related to patient and resident protection.

3372 (c) The department shall determine whether to grant [clearance] certification for direct
3373 patient access for each applicant for whom it receives:

3374 (i) the personal identification information specified by the department under
3375 Subsection (4)(b); and

3376 (ii) any fees established by the department under Subsection (9).

3377 (d) The department shall establish a procedure for obtaining and evaluating relevant
3378 information concerning covered individuals, including fingerprinting the applicant
3379 and submitting the prints to the Criminal Investigations and Technical Services
3380 Division of the Department of Public Safety for checking against applicable state,
3381 regional, and national criminal records files.

3382 (3) The department may review the following sources to determine whether an individual
3383 should be granted or retain [clearance] certification for direct patient access, which may
3384 include:

3385 (a) Department of Public Safety arrest, conviction, and disposition records described in
3386 Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including
3387 information in state, regional, and national records files;

3388 (b) juvenile court arrest, adjudication, and disposition records, as allowed under Section
3389 78A-6-209;

3390 (c) federal criminal background databases available to the state;

3391 (d) the Division of Child and Family Services Licensing Information System described
3392 in Section 80-2-1002;

3393 (e) child abuse or neglect findings described in Section 80-3-404;

- 3394 (f) the Division of Aging and Adult Services vulnerable adult abuse, neglect, or
3395 exploitation database described in Section 26B-6-210;
- 3396 (g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;
- 3397 (h) licensing and certification records of individuals licensed or certified by the Division
3398 of Professional Licensing under Title 58, Occupations and Professions; and
- 3399 (i) the List of Excluded Individuals and Entities database maintained by the United
3400 States Department of Health and Human Services' Office of Inspector General.
- 3401 (4) The department shall adopt rules that:
- 3402 (a) specify the criteria the department will use to determine whether an individual is
3403 granted or retains [elearanee] certification for direct patient access:
- 3404 (i) based on an initial evaluation and ongoing review of information under Subsection
3405 (3); and
- 3406 (ii) including consideration of the relationship the following may have to patient and
3407 resident protection:
- 3408 (A) warrants for arrest;
- 3409 (B) arrests;
- 3410 (C) convictions, including pleas in abeyance;
- 3411 (D) pending diversion agreements;
- 3412 (E) adjudications by a juvenile court under Section 80-6-701 if the individual is
3413 over 28 years old and has been convicted, has pleaded no contest, or is subject
3414 to a plea in abeyance or diversion agreement for a felony or misdemeanor, or
3415 the individual is under 28 years old; and
- 3416 (F) any other findings under Subsection (3); and
- 3417 (b) specify the personal identification information that must be submitted by an
3418 individual or covered body with an application for [elearanee] certification for direct
3419 patient access, including:
- 3420 (i) the applicant's Social Security number; and
- 3421 (ii) fingerprints.
- 3422 (5) For purposes of Subsection (4)(a), the department shall classify a crime committed in
3423 another state according to the closest matching crime under Utah law, regardless of how
3424 the crime is classified in the state where the crime was committed.
- 3425 (6) The Department of Public Safety, the Administrative Office of the Courts, the Division
3426 of Professional Licensing, and any other state agency or political subdivision of the state:
- 3427 (a) shall allow the department to review the information the department may review

- 3428 under Subsection (3); and
- 3429 (b) except for the Department of Public Safety, may not charge the department for
- 3430 access to the information.
- 3431 (7) The department shall adopt measures to protect the security of the information it
- 3432 reviews under Subsection (3) and strictly limit access to the information to department
- 3433 employees responsible for processing an application for [clearance] certification for
- 3434 direct patient access.
- 3435 (8) The department may disclose personal identification information specified under
- 3436 Subsection (4)(b) to other divisions and offices within the department to verify that the
- 3437 subject of the information is not identified as a perpetrator or offender in the information
- 3438 sources described in Subsections (3)(d) through (f).
- 3439 (9) The department may establish fees, in accordance with Section 63J-1-504, for an
- 3440 application for [clearance] certification for direct patient access, which may include:
- 3441 (a) the cost of obtaining and reviewing information under Subsection (3);
- 3442 (b) a portion of the cost of creating and maintaining the Direct Access Clearance System
- 3443 database under Section 26B-2-241; and
- 3444 (c) other department costs related to the processing of the application and the ongoing
- 3445 review of information pursuant to Subsection (4)(a) to determine whether [clearance]
- 3446 certification for direct patient access should be retained.

3447 Section 34. Section **26B-2-241** is amended to read:

3448 **26B-2-241 (Effective 05/01/24) (Superseded 07/01/24). Direct Access Clearance**

3449 **System database -- Contents and use -- Department of Public Safety retention of**

3450 **information and notification -- No civil liability for providing information.**

- 3451 (1) The definitions in Section 26B-2-238 apply to this section.
- 3452 (2) The department shall create and maintain a Direct Access Clearance System database,
- 3453 which:
- 3454 (a) includes the names of individuals for whom the department has received[:]
- 3455 [(i)] an
- 3456 application for [clearance] certification for direct patient access under this part; [or (ii)
- 3457 ~~an application for background clearance under Section 26B-4-124;~~] and
- 3458 (b) indicates whether an application is pending and whether [clearance] certification for
- 3459 direct patient access has been granted and retained for[:]
- [(i)] an applicant under this
- part[; and] .

- 3460 ~~[(ii) an applicant for background clearance under Section 26B-4-124.]~~
- 3461 (3) (a) The department shall allow covered providers and covered contractors to access
- 3462 the database electronically.
- 3463 (b) Data accessible to a covered provider or covered contractor is limited to the
- 3464 information under Subsections (2)(a)(i) and (2)(b)(i) for:
- 3465 (i) covered individuals engaged by the covered provider or covered contractor; and
- 3466 (ii) individuals:
- 3467 (A) whom the covered provider or covered contractor could engage as covered
- 3468 individuals; and
- 3469 (B) who have provided the covered provider or covered contractor with sufficient
- 3470 personal identification information to uniquely identify the individual in the
- 3471 database.
- 3472 (c) (i) The department may establish fees, in accordance with Section 63J-1-504, for
- 3473 use of the database by a covered contractor.
- 3474 (ii) The fees may include, in addition to any fees established by the department under
- 3475 Subsection 26B-2-240(9), an initial set-up fee, an ongoing access fee, and a
- 3476 per-use fee.
- 3477 (4) The Criminal Investigations and Technical Services Division within the Department of
- 3478 Public Safety shall:
- 3479 (a) retain, separate from other division records, personal information, including any
- 3480 fingerprints, sent to the division by the department pursuant to Subsection 26B-2-240
- 3481 (3)(a); and
- 3482 (b) notify the department upon receiving notice that an individual for whom personal
- 3483 information has been retained is the subject of:
- 3484 (i) a warrant for arrest;
- 3485 (ii) an arrest;
- 3486 (iii) a conviction, including a plea in abeyance; or
- 3487 (iv) a pending diversion agreement.
- 3488 (5) A covered body is not civilly liable for submitting to the department information
- 3489 required under this section, Section 26B-2-239, or Section 26B-2-240, or refusing to
- 3490 employ an individual who does not have clearance to have direct patient access under
- 3491 Section 26B-2-240.
- 3492 Section 35. Section **26B-2-241** is amended to read:
- 3493 **26B-2-241 (Effective 07/01/24). Direct Access Clearance System database --**

Contents and use -- Department of Public Safety retention of information and notification -- No civil liability for providing information.

(1) The definitions in Section 26B-2-238 apply to this section.

(2) The department shall create and maintain a Direct Access Clearance System database, which:

(a) includes the names of individuals for whom[:]

[(i)] the department has received an

application for [clearance] certification for direct patient access under this part; [or]

and

[(ii) ~~the Bureau of Emergency Medical Services has received an application for~~

~~background clearance under Section 53-2d-410; and]~~

(b) indicates whether an application is pending and whether clearance has been granted and retained for[:]

[(i)] an applicant under this part[; and] .

[(ii) ~~an applicant for background clearance under Section 53-2d-410;]~~

(3) (a) The department shall allow covered providers and covered contractors to access the database electronically.

(b) Data accessible to a covered provider or covered contractor is limited to the information under Subsections (2)(a)(i) and (2)(b)(i) for:

(i) covered individuals engaged by the covered provider or covered contractor; and

(ii) individuals:

(A) whom the covered provider or covered contractor could engage as covered individuals; and

(B) who have provided the covered provider or covered contractor with sufficient personal identification information to uniquely identify the individual in the database.

(c) (i) The department may establish fees, in accordance with Section 63J-1-504, for use of the database by a covered contractor.

(ii) The fees may include, in addition to any fees established by the department under Subsection 26B-2-240(9), an initial set-up fee, an ongoing access fee, and a per-use fee.

(4) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

(a) retain, separate from other division records, personal information, including any

3526 fingerprints, sent to the division by the department pursuant to Subsection 26B-2-240
3527 (3)(a); and

3528 (b) notify the department upon receiving notice that an individual for whom personal
3529 information has been retained is the subject of:

3530 (i) a warrant for arrest;

3531 (ii) an arrest;

3532 (iii) a conviction, including a plea in abeyance; or

3533 (iv) a pending diversion agreement.

3534 (5) A covered body is not civilly liable for submitting to the department information
3535 required under this section, Section 26B-2-239, or Section 26B-2-240, or refusing to
3536 employ an individual who does not have [clearance] certification for direct patient access
3537 to have direct patient access under Section 26B-2-240.

3538 Section 36. Section **26B-3-114** is amended to read:

3539 **26B-3-114 (Effective 05/01/24). Department standards for eligibility under**

3540 **Medicaid -- Funds for abortions.**

3541 (1) (a) The department may develop standards and administer policies relating to
3542 eligibility under the Medicaid program [~~as long as they are consistent~~] if the standards
3543 and policies comply with [Subsection 26B-4-704(8)] Section 26B-3-108.

3544 (b) An applicant receiving Medicaid assistance may be limited to particular types of care
3545 or services or to payment of part or all costs of care determined to be medically
3546 necessary.

3547 (2) The department may not provide any funds for medical, hospital, or other medical
3548 expenditures or medical services to otherwise eligible persons where the purpose of the
3549 assistance is to perform an abortion, unless the life of the mother would be endangered if
3550 an abortion were not performed.

3551 (3) Any employee of the department who authorizes payment for an abortion contrary to
3552 the provisions of this section is guilty of a class B misdemeanor and subject to forfeiture
3553 of office.

3554 (4) Any person or organization that, under the guise of other medical treatment, provides an
3555 abortion under auspices of the Medicaid program is guilty of a third degree felony and
3556 subject to forfeiture of license to practice medicine or authority to provide medical
3557 services and treatment.

3558 Section 37. Section **26B-3-212** is amended to read:

3559 **26B-3-212 (Effective 05/01/24). Limited family planning services for low-income**

3560 **individuals.**

3561 (1) As used in this section:

3562 (a) (i) "Family planning services" means family planning services that are provided
3563 under the state Medicaid program, including:

3564 (A) sexual health education and family planning counseling; and

3565 (B) other medical diagnosis, treatment, or preventative care routinely provided as
3566 part of a family planning service visit.

3567 (ii) "Family planning services" do not include an abortion, as that term is defined in
3568 Section 76-7-301 or 76-7a-101.

3569 (b) "Low-income individual" means an individual who:

3570 (i) has an income level that is equal to or below 185% of the federal poverty level;
3571 and

3572 (ii) does not qualify for full coverage under the Medicaid program.

3573 (2) Before January 1, 2024, the division shall apply for a Medicaid waiver or a state plan
3574 amendment with CMS to:

3575 (a) offer a program that provides family planning services to low-income individuals;
3576 and

3577 (b) receive a federal match rate of 90% of state expenditures for family planning
3578 services provided under the waiver or state plan amendment.

3579 Section 38. Section **26B-4-118** is amended to read:

3580 **26B-4-118 (Effective 05/01/24) (Superseded 07/01/24). Permits for emergency**
3581 **medical service vehicles and nonemergency secured behavioral health transport**
3582 **vehicles.**

3583 (1) (a) To ensure that emergency medical service vehicles and nonemergency secured
3584 behavioral health transport vehicles are adequately staffed, safe, maintained, properly
3585 equipped, and safely operated, the committee shall establish permit requirements at
3586 levels it considers appropriate in the following categories:

3587 (i) ambulance;

3588 (ii) emergency medical response vehicle; and

3589 (iii) nonemergency secured behavioral health transport vehicle.

3590 (b) The permit requirements under Subsections (1)(a)(i) and (ii) shall include a
3591 requirement that~~[beginning on or after January 31, 2014,]~~ every operator of an
3592 ambulance or emergency medical response vehicle annually provide proof of the
3593 successful completion of an emergency vehicle operator's course approved by the

3594 department for all ambulances and emergency medical response vehicle operators.
3595 (2) The department shall, based on the requirements established in Subsection (1), issue
3596 permits to emergency medical service vehicles and nonemergency secured behavioral
3597 health transport vehicles.

3598 Section 39. Section **26B-4-136** is amended to read:

3599 **26B-4-136 (Effective 05/01/24) (Superseded 07/01/24). Volunteer Emergency**
3600 **Medical Service Personnel Health Insurance Program -- Creation --**
3601 **Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board.**

3602 (1) As used in this section:

3603 (a) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

3604 (b) "Local government entity" means a political subdivision that:

3605 (i) is licensed as a ground ambulance provider under Sections 26B-4-150 through
3606 26B-4-170; and

3607 (ii) ~~[as of January 1, 2022,]~~ does not offer health insurance benefits to volunteer
3608 emergency medical service personnel.

3609 (c) "PEHP" means the Public Employees' Benefit and Insurance Program created in
3610 Section 49-20-103.

3611 (d) "Political subdivision" means a county, a municipality, a limited purpose government
3612 entity described in Title 17B, Limited Purpose Local Government Entities - Special
3613 Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities,
3614 or an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal
3615 Cooperation Act.

3616 (e) "Qualifying association" means an association that represents two or more political
3617 subdivisions in the state.

3618 (2) The Volunteer Emergency Medical Service Personnel Health Insurance Program shall
3619 promote recruitment and retention of volunteer emergency medical service personnel by
3620 making health insurance available to volunteer emergency medical service personnel.

3621 (3) The department shall contract with a qualifying association to create, implement, and
3622 administer the Volunteer Emergency Medical Service Personnel Health Insurance
3623 Program described in this section.

3624 (4) Participation in the program is limited to emergency medical service personnel who:

3625 (a) are licensed under Section 26B-4-116 and are able to perform all necessary functions
3626 associated with the license;

3627 (b) provide emergency medical services under the direction of a local governmental

- 3628 entity:
- 3629 (i) by responding to 20% of calls for emergency medical services in a rolling
- 3630 twelve-month period;
- 3631 (ii) within a county of the third, fourth, fifth, or sixth class; and
- 3632 (iii) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R.
- 3633 Sec. 553.106;
- 3634 (c) are not eligible for a health benefit plan through an employer or a spouse's employer;
- 3635 (d) are not eligible for medical coverage under a government sponsored healthcare
- 3636 program; and
- 3637 (e) reside in the state.
- 3638 (5) (a) A participant in the program is eligible to participate in PEHP in accordance with
- 3639 Subsection (5)(b) and Subsection 49-20-201(3).
- 3640 (b) Benefits available to program participants under PEHP are limited to health
- 3641 insurance that:
- 3642 (i) covers the program participant and the program participant's eligible dependents
- 3643 on a July 1 plan year;
- 3644 (ii) accepts enrollment during an open enrollment period or for a special enrollment
- 3645 event, including the initial eligibility of a program participant;
- 3646 (iii) if the program participant is no longer eligible for benefits, terminates on the last
- 3647 day of the last month for which the individual is a participant in the Volunteer
- 3648 Emergency Medical Service Personnel Health Insurance Program; and
- 3649 (iv) is not subject to continuation rights under state or federal law.
- 3650 (6) (a) The department may make rules in accordance with Title 63G, Chapter 3, Utah
- 3651 Administrative Rulemaking Act, to define additional criteria regarding benefit design
- 3652 and eligibility for the program.
- 3653 (b) The department shall convene an advisory board:
- 3654 (i) to advise the department on making rules under Subsection (6)(a); and
- 3655 (ii) that includes representation from at least the following entities:
- 3656 (A) the qualifying association that receives the contract under Subsection (3); and
- 3657 (B) PEHP.
- 3658 (7) For purposes of this section, the qualifying association that receives the contract under
- 3659 Subsection (3) shall be considered the public agency for whom the program participant
- 3660 is volunteering under 29 C.F.R. Sec. 553.101.
- 3661 Section 40. Section **26B-4-152** is amended to read:

26B-4-152 (Effective 05/01/24) (Superseded 07/01/24). Establishment of maximum rates.

(1) The department shall, after receiving recommendations under Subsection (2), establish maximum rates for ground ambulance providers and paramedic providers that are just and reasonable.

(2) The committee may make recommendations to the department on the maximum rates that should be set under Subsection (1).

(3) (a) [~~The department shall prohibit ground~~] Ground ambulance providers and paramedic providers [~~from charging~~] may not charge fees for transporting a patient when the provider does not transport the patient.

(b) The provisions of Subsection (3)(a) do not apply to ambulance providers or paramedic providers in a geographic service area which contains a town as defined in Subsection 10-2-301(2)(f).

Section 41. Section **26B-4-154** is amended to read:

26B-4-154 (Effective 05/01/24) (Superseded 07/01/24). Ground ambulance and paramedic licenses -- Agency notice of approval.

(1) [~~Beginning January 1, 2004, if~~] If the department determines that the application meets the minimum requirements for licensure under Section 26B-4-153, the department shall issue a notice of the approved application to the applicant.

(2) A current license holder responding to a request for proposal under Section 26B-4-156 is considered an approved applicant for purposes of Section 26B-4-156 if the current license holder, prior to responding to the request for proposal, submits the following to the department:

(a) the information described in Subsections 26B-4-153(4)(a)(i) through (iii); and

(b) (i) if the license holder is a private entity, a financial statement, a pro forma budget and necessary letters of credit demonstrating a financial ability to expand service to a new service area; or

(ii) if the license holder is a governmental entity, a letter from the governmental entity's governing body demonstrating the governing body's willingness to financially support the application.

Section 42. Section **26B-4-201** is amended to read:

26B-4-201 (Effective 05/01/24). Definitions.

As used in this part:

(1) "Active tetrahydrocannabinol" means THC, any THC analog, and

- 3696 tetrahydrocannabinolic acid.
- 3697 (2) "Advertise" ~~[or "advertising"]~~ means information provided by a ~~[medical cannabis~~
3698 ~~pharmacy]~~ person in any medium:
- 3699 (a) to the public; and
- 3700 (b) that is not age restricted to an individual who is at least 21 years old.
- 3701 (3) "Advisory board" means the Medical Cannabis Policy Advisory Board created in
3702 Section 26B-1-435.
- 3703 (4) "Cannabis Research Review Board" means the Cannabis Research Review Board
3704 created in Section 26B-1-420.
- 3705 (5) "Cannabis" means marijuana.
- 3706 ~~[(6) "Cannabis cultivation facility" means the same as that term is defined in Section~~
3707 ~~4-41a-102.]~~
- 3708 ~~[(7)]~~ (6) "Cannabis processing facility" means the same as that term is defined in Section
3709 4-41a-102.
- 3710 ~~[(8)]~~ (7) "Cannabis product" means a product that:
- 3711 (a) is intended for human use; and
- 3712 (b) contains cannabis or any tetrahydrocannabinol or THC analog in a total
3713 concentration of 0.3% or greater on a dry weight basis.
- 3714 ~~[(9)]~~ (8) "Cannabis production establishment" means the same as that term is defined in
3715 Section 4-41a-102.
- 3716 ~~[(10)]~~ (9) "Cannabis production establishment agent" means the same as that term is defined
3717 in Section 4-41a-102.
- 3718 ~~[(11)]~~ (10) "Cannabis production establishment agent registration card" means the same as
3719 that term is defined in Section 4-41a-102.
- 3720 ~~[(12) "Community location" means a public or private elementary or secondary school, a~~
3721 ~~church, a public library, a public playground, or a public park.]~~
- 3722 ~~[(13)]~~ (11) "Conditional medical cannabis card" means an electronic medical cannabis card
3723 that the department issues in accordance with Subsection 26B-4-213(1)(b) to allow an
3724 applicant for a medical cannabis card to access medical cannabis during the department's
3725 review of the application.
- 3726 ~~[(14)]~~ (12) "Controlled substance database" means the controlled substance database created
3727 in Section 58-37f-201.
- 3728 ~~[(15)]~~ (13) "Delivery address" means:
- 3729 (a) for a medical cannabis cardholder who is not a facility, the medical cannabis

- 3730 cardholder's home address; or
- 3731 (b) for a medical cannabis cardholder that is a facility, the facility's address.
- 3732 [(16)] (14) "Department" means the Department of Health and Human Services.
- 3733 [(17)] (15) "Designated caregiver" means:
- 3734 (a) an individual:
- 3735 (i) whom an individual with a medical cannabis patient card or a medical cannabis
- 3736 guardian card designates as the patient's caregiver; and
- 3737 (ii) who registers with the department under Section 26B-4-214; or
- 3738 (b) (i) a facility that an individual designates as a designated caregiver in accordance
- 3739 with Subsection 26B-4-214(1)(b); or
- 3740 (ii) an assigned employee of the facility described in Subsection 26B-4-214(1)(b)(ii).
- 3741 [(18)] (16) "Directions of use" means recommended routes of administration for a medical
- 3742 cannabis treatment and suggested usage guidelines.
- 3743 [(19)] (17) "Dosing guidelines" means a quantity range and frequency of administration for
- 3744 a recommended treatment of medical cannabis.
- 3745 [(20)] "Financial institution" means a bank, trust company, savings institution, or credit
- 3746 union, chartered and supervised under state or federal law.]
- 3747 [(21)] (18) "Government issued photo identification" means any of the following forms of
- 3748 identification:
- 3749 (a) a valid state-issued driver license or identification card;
- 3750 (b) a valid United States federal-issued photo identification, including:
- 3751 (i) a United States passport;
- 3752 (ii) a United States passport card;
- 3753 (iii) a United States military identification card; or
- 3754 (iv) a permanent resident card or alien registration receipt card; or
- 3755 (c) a foreign passport.
- 3756 [(22)] (19) "Home delivery medical cannabis pharmacy" means a medical cannabis
- 3757 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver
- 3758 medical cannabis shipments to a delivery address to fulfill electronic orders that the state
- 3759 central patient portal facilitates.
- 3760 [(23)] (20) "Inventory control system" means the system described in Section 4-41a-103.
- 3761 [(24)] (21) "Legal dosage limit" means an amount that:
- 3762 (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the
- 3763 relevant recommending medical provider or the state central patient portal or

- 3764 pharmacy medical provider, in accordance with Subsection 26B-4-230(5),
 3765 recommends; and
- 3766 (b) may not exceed:
- 3767 (i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and
 3768 (ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in
 3769 total, greater than 20 grams of active tetrahydrocannabinol.
- 3770 ~~[(25)]~~ (22) "Legal use termination date" means a date on the label of a container of
 3771 unprocessed cannabis flower:
- 3772 (a) that is 60 days after the date of purchase of the cannabis; and
 3773 (b) after which, the cannabis is no longer in a medicinal dosage form outside of the
 3774 primary residence of the relevant medical cannabis patient cardholder.
- 3775 ~~[(26)]~~ (23) "Limited medical provider" means an individual who:
- 3776 (a) meets the recommending qualifications; and
 3777 (b) has no more than 15 patients with a valid medical cannabis patient card~~[-or~~
 3778 ~~provisional patient card]~~ as a result of the individual's recommendation, in
 3779 accordance with Subsection 26B-4-204(1)(b).
- 3780 ~~[(27)]~~ (24) "Marijuana" means the same as that term is defined in Section 58-37-2.
- 3781 ~~[(28)]~~ (25) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis
 3782 product in a medicinal dosage form.
- 3783 ~~[(29)]~~ (26) "Medical cannabis card" means a medical cannabis patient card, a medical
 3784 cannabis guardian card, a medical cannabis caregiver card, or a conditional medical
 3785 cannabis card.
- 3786 ~~[(30)]~~ (27) "Medical cannabis cardholder" means:
- 3787 (a) a holder of a medical cannabis card; or
 3788 (b) a facility or assigned employee, described in Subsection~~[(17)(b)]~~ (15)(b), only:
- 3789 (i) within the scope of the facility's or assigned employee's performance of the role of
 3790 a medical cannabis patient cardholder's caregiver designation under Subsection
 3791 26B-4-214(1)(b); and
 3792 (ii) while in possession of documentation that establishes:
- 3793 (A) a caregiver designation described in Subsection 26B-4-214(1)(b);
 3794 (B) the identity of the individual presenting the documentation; and
 3795 (C) the relation of the individual presenting the documentation to the caregiver
 3796 designation.
- 3797 ~~[(31)]~~ (28) "Medical cannabis caregiver card" means an electronic document that a

3798 cardholder may print or store on an electronic device or a physical card or document that:

3799 (a) the department issues to an individual whom a medical cannabis patient cardholder
3800 or a medical cannabis guardian cardholder designates as a designated caregiver; and

3801 (b) is connected to the electronic verification system.

3802 ~~[(32)]~~ (29) "Medical cannabis courier" means the same as that term is defined in Section
3803 4-41a-102.

3804 ~~[(33) "Medical cannabis courier agent" means the same as that term is defined in Section~~
3805 ~~4-41a-102.]~~

3806 ~~[(34)]~~ (30) (a) "Medical cannabis device" means a device that an individual uses to ingest
3807 or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal
3808 dosage form.

3809 (b) "Medical cannabis device" does not include a device that:

3810 (i) facilitates cannabis combustion; or

3811 (ii) an individual uses to ingest substances other than cannabis.

3812 ~~[(35)]~~ (31) "Medical cannabis guardian card" means an electronic document that a
3813 cardholder may print or store on an electronic device or a physical card or document that:

3814 (a) the department issues to the parent or legal guardian of a minor with a qualifying
3815 condition; and

3816 (b) is connected to the electronic verification system.

3817 ~~[(36)]~~ (32) "Medical cannabis patient card" means an electronic document that a cardholder
3818 may print or store on an electronic device or a physical card or document that:

3819 (a) the department issues to an individual with a qualifying condition; and

3820 (b) is connected to the electronic verification system.

3821 ~~[(37)]~~ (33) "Medical cannabis pharmacy" means a person that:

3822 (a) (i) acquires or intends to acquire medical cannabis or a cannabis product in a
3823 medicinal dosage form from a cannabis processing facility or another medical
3824 cannabis pharmacy or a medical cannabis device; or

3825 (ii) possesses medical cannabis or a medical cannabis device; and

3826 (b) sells or intends to sell medical cannabis or a medical cannabis device to a medical
3827 cannabis cardholder.

3828 ~~[(38)]~~ (34) "Medical cannabis pharmacy agent" means an individual who holds a valid
3829 medical cannabis pharmacy agent registration card issued by the department.

3830 ~~[(39)]~~ (35) "Medical cannabis pharmacy agent registration card" means a registration card
3831 issued by the department that authorizes an individual to act as a medical cannabis

- 3832 pharmacy agent.
- 3833 [(40)] (36) "Medical cannabis shipment" means the same as that term is defined in Section
3834 4-41a-102.
- 3835 [(41)] (37) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a
3836 cannabis product in a medicinal dosage form, or a medical cannabis device.
- 3837 [(42)] (38) (a) "Medicinal dosage form" means:
- 3838 (i) for processed medical cannabis or a medical cannabis product, the following with
3839 a specific and consistent cannabinoid content:
- 3840 (A) a tablet;
- 3841 (B) a capsule;
- 3842 (C) a concentrated liquid or viscous oil;
- 3843 (D) a liquid suspension that[, after December 1, 2022,] does not exceed 30 [ml]
3844 milliliters;
- 3845 (E) a topical preparation;
- 3846 (F) a transdermal preparation;
- 3847 (G) a sublingual preparation;
- 3848 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
3849 rectangular cuboid shape;
- 3850 (I) a resin or wax; or
- 3851 (J) an aerosol; or
- 3852 (ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:
- 3853 (A) contains cannabis [~~flowers~~] flower in a quantity that varies by no more than
3854 10% from the stated weight at the time of packaging;
- 3855 (B) at any time the medical cannabis cardholder transports or possesses the
3856 container in public, is contained within an opaque bag or box that the medical
3857 cannabis pharmacy provides; and
- 3858 (C) is labeled with the container's content and weight, the date of purchase, the
3859 legal use termination date, and[, after December 31, 2020,] a barcode that
3860 provides information connected to an inventory control system[.]
- 3861 (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:
- 3862 (i) the medical cannabis cardholder has recently removed from the container
3863 described in Subsection (42)(a)(ii) for use; and
- 3864 (ii) does not exceed the quantity described in Subsection [(42)(a)(ii)] (38)(a)(ii).
- 3865 (c) "Medicinal dosage form" does not include:

- 3866 (i) any unprocessed cannabis flower outside of the container described in Subsection [
3867 ~~(42)(a)(ii)~~ (38)(a)(ii), except as provided in Subsection [~~(42)(b)~~ (38)(b)];
3868 (ii) any unprocessed cannabis flower in a container described in Subsection [
3869 ~~(42)(a)(ii)~~ (38)(a)(ii) after the legal use termination date;
3870 (iii) a process of vaporizing and inhaling concentrated cannabis by placing the
3871 cannabis on a nail or other metal object that is heated by a flame, including a
3872 blowtorch;
3873 (iv) a liquid suspension that is branded as a beverage ; or
3874 (v) a substance described in Subsection [~~(42)(a)(i)~~ (38)(a)(i) or (ii) if the substance is
3875 not measured in grams, milligrams, or milliliters.

3876 ~~[(43)]~~ (39) "Nonresident patient" means an individual who:

- 3877 (a) is not a resident of Utah or has been a resident of Utah for less than 45 days;
3878 (b) has a currently valid medical cannabis card or the equivalent of a medical cannabis
3879 card under the laws of another state, district, territory, commonwealth, or insular
3880 possession of the United States; and
3881 (c) has been diagnosed with a qualifying condition as described in Section 26B-4-203.

3882 ~~[(44)]~~ ~~"Payment provider" means an entity that contracts with a cannabis production~~
3883 ~~establishment or medical cannabis pharmacy to facilitate transfers of funds between the~~
3884 ~~establishment or pharmacy and other businesses or individuals.]~~

3885 ~~[(45)]~~ (40) "Pharmacy medical provider" means the medical provider required to be on site
3886 at a medical cannabis pharmacy under Section 26B-4-219.

3887 ~~[(46)]~~ (41) "Provisional patient card" means a card that:

- 3888 (a) the department issues to a minor with a qualifying condition for whom:
3889 (i) a recommending medical provider has recommended a medical cannabis
3890 treatment; and
3891 (ii) the department issues a medical cannabis guardian card to the minor's parent or
3892 legal guardian; and
3893 (b) is connected to the electronic verification system.

3894 ~~[(47)]~~ (42) "Qualified medical provider" means an individual:

- 3895 (a) who meets the recommending qualifications; and
3896 (b) whom the department registers to recommend treatment with cannabis in a medicinal
3897 dosage form under Section 26B-4-204.

3898 ~~[(48)]~~ (43) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section
3899 26B-1-310.

3900 [(49)] (44) "Qualifying condition" means a condition described in Section 26B-4-203.

3901 [(50)] (45) "Recommend" or "recommendation" means, for a recommending medical

3902 provider, the act of suggesting the use of medical cannabis treatment, which:

3903 (a) certifies the patient's eligibility for a medical cannabis card; and

3904 (b) may include, at the recommending medical provider's discretion, directions of use,

3905 with or without dosing guidelines.

3906 [(51)] (46) "Recommending medical provider" means a qualified medical provider or a

3907 limited medical provider.

3908 [(52)] (47) "Recommending qualifications" means that an individual:

3909 (a) (i) has the authority to write a prescription;

3910 (ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah

3911 Controlled Substances Act; and

3912 (iii) possesses the authority, in accordance with the individual's scope of practice, to

3913 prescribe a Schedule II controlled substance; and

3914 (b) is licensed as:

3915 (i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

3916 (ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice

3917 Act;

3918 (iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58,

3919 Chapter 68, Utah Osteopathic Medical Practice Act; or

3920 (iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

3921 [(53)] (48) "State central patient portal" means the website the department creates, in

3922 accordance with Section 26B-4-236, to facilitate patient safety, education, and an

3923 electronic medical cannabis order.

3924 [(54)] (49) "State electronic verification system" means the system described in Section

3925 26B-4-202.

3926 [(55)] ~~"Targeted marketing" means the promotion by a medical cannabis pharmacy of a~~

3927 ~~medical cannabis product, medical cannabis brand, or a medical cannabis device using~~

3928 ~~any of the following methods:]~~

3929 ~~[(a) electronic communication to an individual who is at least 21 years old and has~~

3930 ~~requested to receive promotional information from the medical cannabis pharmacy;]~~

3931 ~~[(b) an in-person marketing event that is:]~~

3932 ~~[(i) held inside a medical cannabis pharmacy; and]~~

3933 ~~[(ii) in an area where only a medical cannabis cardholder may access the event; or]~~

3934 [~~(e) other marketing material that is physically available or digitally displayed in:~~]

3935 [~~(i) a medical cannabis pharmacy; and]~~

3936 [~~(ii) an area where only a medical cannabis cardholder has access.]~~

3937 [(56)] (50) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a
3938 synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

3939 [(57)] (51) "THC analog" means the same as that term is defined in Section 4-41-102.

3940 Section 43. Section **26B-4-202** is amended to read:

3941 **26B-4-202 (Effective 05/01/24). Electronic verification system.**

3942 (1) The Department of Agriculture and Food, the department, the Department of Public
3943 Safety, and the Division of Technology Services shall:

3944 (a) enter into a memorandum of understanding in order to determine the function and
3945 operation of the state electronic verification system in accordance with Subsection
3946 (2);

3947 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah
3948 Procurement Code, to develop a request for proposals for a third-party provider to
3949 develop and maintain the state electronic verification system in coordination with the
3950 Division of Technology Services; and

3951 (c) select a third-party provider who:

3952 (i) meets the requirements contained in the request for proposals issued under
3953 Subsection (1)(b); and

3954 (ii) may not have any commercial or ownership interest in a cannabis production
3955 establishment or a medical cannabis pharmacy.

3956 (2) The Department of Agriculture and Food, the department, the Department of Public
3957 Safety, and the Division of Technology Services shall ensure that the state electronic
3958 verification system described in Subsection (1):

3959 (a) allows an individual to apply for a medical cannabis patient card or, if applicable, a
3960 medical cannabis guardian card, provided that the card may not become active until:

3961 (i) the relevant qualified medical provider completes the associated medical cannabis
3962 recommendation; or

3963 (ii) for a medical cannabis card related to a limited medical provider's
3964 recommendation, the medical cannabis pharmacy completes the recording
3965 described in Subsection (2)(d);

3966 (b) allows an individual to apply to renew a medical cannabis patient card or a medical
3967 cannabis guardian card in accordance with Section 26B-4-213;

- 3968 (c) allows a qualified medical provider, or an employee described in Subsection (3)
3969 acting on behalf of the qualified medical provider, to:
- 3970 (i) access dispensing and card status information regarding a patient:
- 3971 (A) with whom the qualified medical provider has a provider-patient relationship;
3972 and
- 3973 (B) for whom the qualified medical provider has recommended or is considering
3974 recommending a medical cannabis card;
- 3975 (ii) electronically [~~recommend treatment~~] recommend treatment with cannabis in a
3976 medicinal dosage form or a cannabis product in a medicinal dosage form and
3977 optionally recommend dosing guidelines;
- 3978 (iii) electronically renew a recommendation to a medical cannabis patient cardholder
3979 or medical cannabis guardian cardholder:
- 3980 (A) using telehealth services, for the qualified medical provider who originally
3981 recommended a medical cannabis treatment during a face-to-face visit with the
3982 patient; or
- 3983 (B) during a face-to-face visit with the patient, for a qualified medical provider
3984 who did not originally recommend the medical cannabis treatment during a
3985 face-to-face visit
- 3986 (iv) submit an initial application, renewal application, or application payment on
3987 behalf of an individual applying for any of the following:
- 3988 (A) a medical cannabis patient card;
3989 (B) a medical cannabis guardian card; or
3990 (C) a medical cannabis caregiver card;
- 3991 (d) allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy
3992 agent, in accordance with Subsection 4-41a-1101(10)(a), to:
- 3993 (i) access the electronic verification system to review the history within the system of
3994 a patient with whom the provider or agent is interacting, limited to read-only
3995 access for medical cannabis pharmacy agents unless the medical cannabis
3996 pharmacy's pharmacist in charge authorizes add and edit access;
- 3997 (ii) record a patient's recommendation from a limited medical provider, including any
3998 directions of use, dosing guidelines, or caregiver indications from the limited
3999 medical provider;
- 4000 (iii) record a limited medical provider's renewal of the provider's previous
4001 recommendation; and

- 4002 (iv) submit an initial application, renewal application, or application payment on
4003 behalf of an individual applying for any of the following:
4004 (A) a medical cannabis patient card;
4005 (B) a medical cannabis guardian card; or
4006 (C) a medical cannabis caregiver card;
- 4007 (e) connects with:
4008 (i) an inventory control system that a medical cannabis pharmacy uses to track in real
4009 time and archive purchases of any cannabis in a medicinal dosage form, cannabis
4010 product in a medicinal dosage form, or a medical cannabis device, including:
4011 (A) the time and date of each purchase;
4012 (B) the quantity and type of cannabis, cannabis product, or medical cannabis
4013 device purchased;
4014 (C) any cannabis production establishment, any medical cannabis pharmacy, or
4015 any medical cannabis courier associated with the cannabis, cannabis product,
4016 or medical cannabis device; and
4017 (D) the personally identifiable information of the medical cannabis cardholder
4018 who made the purchase; and
4019 (ii) any commercially available inventory control system that a cannabis production
4020 establishment utilizes in accordance with Section 4-41a-103 to use data that the
4021 Department of Agriculture and Food requires by rule, in accordance with Title
4022 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory
4023 tracking system that a licensee uses to track and confirm compliance;
- 4024 (f) provides access to:
4025 (i) the department to the extent necessary to carry out the department's functions and
4026 responsibilities under this part;
4027 (ii) the Department of Agriculture and Food to the extent necessary to carry out the
4028 functions and responsibilities of the Department of Agriculture and Food under
4029 Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies; and
4030 (iii) the Division of Professional Licensing to the extent necessary to carry out the
4031 functions and responsibilities related to the participation of the following in the
4032 recommendation and dispensing of medical cannabis:
4033 (A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing
4034 Act;
4035 (B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

- 4036 (C) an advanced practice registered nurse licensed under Title 58, Chapter 31b,
4037 Nurse Practice Act;
- 4038 (D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
4039 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
4040 (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
4041 Assistant Act;
- 4042 (g) provides access to and interaction with the state central patient portal;
- 4043 (h) communicates dispensing information from a record that a medical cannabis
4044 pharmacy submits to the state electronic verification system under Subsection
4045 4-41a-1102(3)(a)(ii) to the controlled substance database;
- 4046 (i) provides access to state or local law enforcement:
- 4047 (i) during a law enforcement encounter, without a warrant, using the individual's
4048 driver license or state ID, only for the purpose of determining if the individual
4049 subject to the law enforcement encounter has a valid medical cannabis card; or
4050 (ii) after obtaining a warrant; and
- 4051 (j) creates a record each time a person accesses the system that identifies the person who
4052 accesses the system and the individual whose records the person accesses.
- 4053 (3) (a) An employee of a qualified medical provider may access the electronic
4054 verification system for a purpose described in Subsection (2)(c) on behalf of the
4055 qualified medical provider if:
- 4056 (i) the qualified medical provider has designated the employee as an individual
4057 authorized to access the electronic verification system on behalf of the qualified
4058 medical provider;
- 4059 (ii) the qualified medical provider provides written notice to the department of the
4060 employee's identity and the designation described in Subsection (3)(a)(i); and
4061 (iii) the department grants to the employee access to the electronic verification
4062 system.
- 4063 (b) An employee of a business that employs a qualified medical provider may access the
4064 electronic verification system for a purpose described in Subsection (2)(c) on behalf
4065 of the qualified medical provider if:
- 4066 (i) the qualified medical provider has designated the employee as an individual
4067 authorized to access the electronic verification system on behalf of the qualified
4068 medical provider;
- 4069 (ii) the qualified medical provider and the employing business jointly provide written

- 4070 notice to the department of the employee's identity and the designation described
4071 in Subsection (3)(b)(i); and
- 4072 (iii) the department grants to the employee access to the electronic verification
4073 system.
- 4074 (4) (a) As used in this Subsection (4), "prescribing provider" means:
- 4075 (i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
4076 (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
4077 Practice Act;
- 4078 (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
4079 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
- 4080 (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
4081 Assistant Act.
- 4082 (b) A prescribing provider may access information in the electronic verification system
4083 regarding a patient the prescribing provider treats.
- 4084 (5) The department may release limited data that the system collects for the purpose of:
- 4085 (a) conducting medical and other department approved research;
4086 (b) providing the report required by Section 26B-4-222; and
4087 (c) other official department purposes.
- 4088 (6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
4089 Administrative Rulemaking Act, to establish:
- 4090 (a) the limitations on access to the data in the state electronic verification system as
4091 described in this section; and
- 4092 (b) standards and procedures to ensure accurate identification of an individual requesting
4093 information or receiving information in this section.
- 4094 (7) (a) Any person who knowingly and intentionally releases any information in the state
4095 electronic verification system in violation of this section is guilty of a third degree
4096 felony.
- 4097 (b) Any person who negligently or recklessly releases any information in the state
4098 electronic verification system in violation of this section is guilty of a class C
4099 misdemeanor.
- 4100 (8) (a) Any person who obtains or attempts to obtain information from the state
4101 electronic verification system by misrepresentation or fraud is guilty of a third degree
4102 felony.
- 4103 (b) Any person who obtains or attempts to obtain information from the state electronic

verification system for a purpose other than a purpose this part authorizes is guilty of a third degree felony.

(9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed \$5,000.

(c) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

(e) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 44. Section **26B-4-213** is amended to read:

26B-4-213 (Effective 05/01/24). Medical cannabis patient card -- Medical cannabis guardian card -- Conditional medical cannabis card -- Application -- Fees -- Studies.

(1) (a) Subject to Section 26B-4-246, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26B-4-214 submits an application in accordance with this section or Section 26B-4-214, the department shall:

(i) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(ii) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

(iv) issue a medical cannabis caregiver card to an individual described in Subsection

- 4138 26B-4-214(4).
- 4139 (b) (i) Upon the entry of a recommending medical provider's medical cannabis
4140 recommendation for a patient in the state electronic verification system, either by
4141 the provider or the provider's employee or by a medical cannabis pharmacy
4142 medical provider or medical cannabis pharmacy in accordance with Subsection
4143 4-41a-1101(10)(a), the department shall issue to the patient an electronic
4144 conditional medical cannabis card, in accordance with this Subsection (1)(b).
- 4145 (ii) A conditional medical cannabis card is valid for the lesser of:
- 4146 (A) 60 days; or
- 4147 (B) the day on which the department completes the department's review and issues
4148 a medical cannabis card under Subsection (1)(a), denies the patient's medical
4149 cannabis card application, or revokes the conditional medical cannabis card
4150 under Subsection (8).
- 4151 (iii) The department may issue a conditional medical cannabis card to an individual
4152 applying for a medical cannabis patient card for which approval of the
4153 Compassionate Use Board is not required.
- 4154 (iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and
4155 obligations under law applicable to a holder of the medical cannabis card for
4156 which the individual applies and for which the department issues the conditional
4157 medical cannabis card.
- 4158 (2) (a) An individual is eligible for a medical cannabis patient card if:
- 4159 (i) (A) the individual is at least 21 years old; or
- 4160 (B) the individual is 18, 19, or 20 years old, the individual petitions the
4161 Compassionate Use Board under Section 26B-1-421, and the Compassionate
4162 Use Board recommends department approval of the petition;
- 4163 (ii) the individual is a Utah resident;
- 4164 (iii) the individual's recommending medical provider recommends treatment with
4165 medical cannabis in accordance with Subsection (4);
- 4166 (iv) the individual signs an acknowledgment stating that the individual received the
4167 information described in Subsection (9); and
- 4168 (v) the individual pays to the department a fee in an amount that, subject to
4169 Subsection 26B-1-310(5), the department sets in accordance with Section
4170 63J-1-504.
- 4171 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

- 4172 (A) is at least 18 years old;
- 4173 (B) is a Utah resident;
- 4174 (C) is the parent or legal guardian of a minor for whom the minor's qualified
- 4175 medical provider recommends a medical cannabis treatment, the individual
- 4176 petitions the Compassionate Use Board under Section 26B-1-421, and the
- 4177 Compassionate Use Board recommends department approval of the petition;
- 4178 (D) the individual signs an acknowledgment stating that the individual received
- 4179 the information described in Subsection (9);
- 4180 (E) pays to the department a fee in an amount that, subject to Subsection
- 4181 26B-1-310(5), the department sets in accordance with Section 63J-1-504, plus
- 4182 the cost of the criminal background check described in Section 26B-4-215.
- 4183 (ii) The department shall notify the Department of Public Safety of each individual
- 4184 that the department registers for a medical cannabis guardian card.
- 4185 (c) (i) A minor is eligible for a provisional patient card if:
- 4186 (A) the minor has a qualifying condition;
- 4187 (B) the minor's qualified medical provider recommends a medical cannabis
- 4188 treatment to address the minor's qualifying condition;
- 4189 (C) one of the minor's parents or legal guardians petitions the Compassionate Use
- 4190 Board under Section 26B-1-421, and the Compassionate Use Board
- 4191 recommends department approval of the petition; and
- 4192 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian
- 4193 card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d)
- 4194 who is eligible for a medical cannabis caregiver card under Section 26B-4-214.
- 4195 (ii) The department shall automatically issue a provisional patient card to the minor
- 4196 described in Subsection (2)(c)(i) at the same time the department issues a medical
- 4197 cannabis guardian card to the minor's parent or legal guardian.
- 4198 (d) If the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A)
- 4199 through (C) does not qualify for a medical cannabis guardian card under Subsection
- 4200 (2)(b), the parent or legal guardian may designate up to two caregivers in accordance
- 4201 with Subsection 26B-4-214(1)(c) to ensure that the minor has adequate and safe
- 4202 access to the recommended medical cannabis treatment.
- 4203 (3) (a) An individual who is eligible for a medical cannabis card described in Subsection
- 4204 (2)(a) or (b) shall submit an application for a medical cannabis card to the department:
- 4205 (i) through an electronic application connected to the state electronic verification

- 4206 system;
- 4207 (ii) with the recommending medical provider; and
- 4208 (iii) with information including:
- 4209 (A) the applicant's name, gender, age, and address;
- 4210 (B) the number of the applicant's government issued photo identification;
- 4211 (C) for a medical cannabis guardian card, the name, gender, and age of the minor
- 4212 receiving a medical cannabis treatment under the cardholder's medical cannabis
- 4213 guardian card; and
- 4214 (D) for a provisional patient card, the name of the minor's parent or legal guardian
- 4215 who holds the associated medical cannabis guardian card.
- 4216 (b) The department shall ensure that a medical cannabis card the department issues
- 4217 under this section contains the information described in Subsection (3)(a)(iii).
- 4218 (c) (i) If a recommending medical provider determines that, because of age, illness,
- 4219 or disability, a medical cannabis patient cardholder requires assistance in
- 4220 administering the medical cannabis treatment that the recommending medical
- 4221 provider recommends, the recommending medical provider may indicate the
- 4222 cardholder's need in the state electronic verification system, either directly or, for
- 4223 a limited medical provider, through the order described in Subsections 26B-4-204
- 4224 (1)(c) and (d).
- 4225 (ii) If a recommending medical provider makes the indication described in
- 4226 Subsection (3)(c)(i):
- 4227 (A) the department shall add a label to the relevant medical cannabis patient card
- 4228 indicating the cardholder's need for assistance;
- 4229 (B) any adult who is 18 years old or older and who is physically present with the
- 4230 cardholder at the time the cardholder needs to use the recommended medical
- 4231 cannabis treatment may handle the medical cannabis treatment and any
- 4232 associated medical cannabis device as needed to assist the cardholder in
- 4233 administering the recommended medical cannabis treatment; and
- 4234 (C) an individual of any age who is physically present with the cardholder in the
- 4235 event of an emergency medical condition, as that term is defined in Section
- 4236 31A-1-301, may handle the medical cannabis treatment and any associated
- 4237 medical cannabis device as needed to assist the cardholder in administering the
- 4238 recommended medical cannabis treatment.
- 4239 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may

- 4240 not:
- 4241 (A) ingest or inhale medical cannabis;
- 4242 (B) possess, transport, or handle medical cannabis or a medical cannabis device
- 4243 outside of the immediate area where the cardholder is present or with an intent
- 4244 other than to provide assistance to the cardholder; or
- 4245 (C) possess, transport, or handle medical cannabis or a medical cannabis device
- 4246 when the cardholder is not in the process of being dosed with medical cannabis.
- 4247 (4) To recommend a medical cannabis treatment to a patient or to renew a recommendation,
- 4248 a recommending medical provider shall:
- 4249 (a) visit with the patient face-to-face for an initial recommendation unless the patient:
- 4250 (i) prefers a virtual visit; and
- 4251 (ii) (A) is on hospice or has a terminal illness according to the patient's medical
- 4252 provider; or
- 4253 (B) is a resident of an assisted living facility, as defined in Section 26B-2-201, or
- 4254 a nursing care facility, as defined in Section 26B-2-201;
- 4255 (b) before recommending or renewing a recommendation for medical cannabis in a
- 4256 medicinal dosage form or a cannabis product in a medicinal dosage form:
- 4257 (i) verify the patient's and, for a minor patient, the minor patient's parent or legal
- 4258 guardian's government issued photo identification described in Subsection (3)(a);
- 4259 (ii) review any record related to the patient and, for a minor patient, the patient's
- 4260 parent or legal guardian in:
- 4261 (A) for a qualified medical provider, the state electronic verification system; and
- 4262 (B) the controlled substance database created in Section 58-37f-201; and
- 4263 (iii) consider the recommendation in light of the patient's qualifying condition,
- 4264 history of substance use or opioid use disorder, and history of medical cannabis
- 4265 and controlled substance use during a visit with the patient; and
- 4266 (c) state in the recommending medical provider's recommendation that the patient:
- 4267 (i) suffers from a qualifying condition, including the type of qualifying condition; and
- 4268 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a
- 4269 cannabis product in a medicinal dosage form.
- 4270 (5) (a) Except as provided in Subsection (5)(b) or (c), a medical cannabis card that the
- 4271 department issues under this section is valid for the lesser of:
- 4272 (i) an amount of time that the recommending medical provider determines; or
- 4273 (ii) one year from the day the card is issued.

- 4274 (b) (i) A medical cannabis card that the department issues in relation to a terminal
4275 illness described in Section 26B-4-203 expires after one year.
- 4276 (ii) The recommending medical provider may revoke a recommendation that the
4277 provider made in relation to a terminal illness described in Section 26B-4-203 if
4278 the medical cannabis cardholder no longer has the terminal illness.
- 4279 (c) A medical cannabis card that the department issues in relation to acute pain as
4280 described in Section 26B-4-203 expires 30 days after the day on which the
4281 department first issues a conditional or full medical cannabis card.
- 4282 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable
4283 if:
- 4284 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a)
4285 or (b); or
- 4286 (ii) the cardholder received the medical cannabis card through the recommendation of
4287 the Compassionate Use Board under Section 26B-1-421.
- 4288 (b) The recommending medical provider who made the underlying recommendation for
4289 the card of a cardholder described in Subsection (6)(a) may renew the cardholder's
4290 card through phone or video conference with the cardholder, at the recommending
4291 medical provider's discretion.
- 4292 (c) Before having access to a renewed card, a cardholder under Subsection (2)(a) or (b)
4293 shall pay to the department a renewal fee in an amount that:
- 4294 (i) subject to Subsection 26B-1-310(5), the department sets in accordance with
4295 Section 63J-1-504; and
- 4296 (ii) may not exceed the cost of the relatively lower administrative burden of renewal
4297 in comparison to the original application process.
- 4298 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional
4299 patient card renews automatically at the time the minor's parent or legal guardian
4300 renews the parent or legal guardian's associated medical cannabis guardian card.
- 4301 (7) (a) A cardholder under this section shall carry the cardholder's valid medical
4302 cannabis card with the patient's name.
- 4303 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
4304 purchase, in accordance with this part and the recommendation underlying the
4305 card, cannabis in a medicinal dosage form, a cannabis product in a medicinal
4306 dosage form, or a medical cannabis device.
- 4307 (ii) A cardholder under this section may possess or transport, in accordance with this

4308 part and the recommendation underlying the card, cannabis in a medicinal dosage
4309 form, a cannabis product in a medicinal dosage form, or a medical cannabis
4310 device.

4311 (iii) To address the qualifying condition underlying the medical cannabis treatment
4312 recommendation:

4313 (A) a medical cannabis patient cardholder or a provisional patient cardholder may
4314 use cannabis in a medicinal dosage form, a medical cannabis product in a
4315 medicinal dosage form, or a medical cannabis device; and

4316 (B) a medical cannabis guardian cardholder may assist the associated provisional
4317 patient cardholder with the use of cannabis in a medicinal dosage form, a
4318 medical cannabis product in a medicinal dosage form, or a medical cannabis
4319 device.

4320 (8) (a) The department may revoke a medical cannabis card that the department issues
4321 under this section if:

4322 (i) the recommending medical provider withdraws the medical provider's
4323 recommendation for medical cannabis; or

4324 (ii) the cardholder:

4325 (A) violates this part; or

4326 (B) is convicted under state or federal law of, after March 17, 2021, a drug
4327 distribution offense.

4328 (b) The department may not refuse to issue a medical cannabis card to a patient solely
4329 based on a prior revocation under Subsection (8)(a)(i).

4330 (9) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah
4331 Administrative Rulemaking Act, a process to provide information regarding the
4332 following to an individual receiving a medical cannabis card:

4333 (a) risks associated with medical cannabis treatment;

4334 (b) the fact that a condition's listing as a qualifying condition does not suggest that
4335 medical cannabis treatment is an effective treatment or cure for that condition, as
4336 described in Subsection 26B-4-203(1); and

4337 (c) other relevant warnings and safety information that the department determines.

4338 (10) The department may establish procedures by rule, in accordance with Title 63G,
4339 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and
4340 issuance provisions of this section.

4341 (11) (a) ~~[On or before September 1, 2021, the]~~ The department shall establish by rule, in

accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the department in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection (11)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

(12) (a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (12)(a) to determine whether an institutional review board, as that term is defined in Section 26B-4-201, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (12)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection (12), information about a cardholder under this section who consents to participate under Subsection (12)(c).

(f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by

4376 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
4377 Act.

4378 (13) The department shall record the issuance or revocation of a medical cannabis card
4379 under this section in the controlled substance database.

4380 Section 45. Section **26B-4-214** is amended to read:

4381 **26B-4-214 (Effective 05/01/24). Medical cannabis caregiver card -- Registration**
4382 **-- Renewal -- Revocation.**

4383 (1) (a) A cardholder described in Section 26B-4-213 may designate, through the state
4384 central patient portal, up to two individuals, or an individual and a facility in
4385 accordance with Subsection (1)(b), to serve as a designated caregiver for the
4386 cardholder.

4387 (b) (i) ~~[Beginning on the earlier of September 1, 2021, or the date on which the~~
4388 ~~electronic verification system is functionally capable of servicing the designation,~~
4389 a] A cardholder described in Section 26B-4-213 may designate one of the
4390 following types of facilities as one of the caregivers described in Subsection (1)(a):

4391 (A) for a patient or resident, an assisted living facility, as that term is defined in
4392 Section 26B-2-201;

4393 (B) for a patient or resident, a nursing care facility, as that term is defined in
4394 Section 26B-2-201; or

4395 (C) for a patient, a general acute hospital, as that term is defined in Section
4396 26B-2-201.

4397 (ii) A facility may:

4398 (A) assign one or more employees to assist patients with medical cannabis
4399 treatment under the caregiver designation described in this Subsection (1)(b);
4400 and

4401 (B) receive a medical cannabis shipment from a medical cannabis pharmacy or a
4402 medical cannabis courier on behalf of the medical cannabis cardholder within
4403 the facility who designated the facility as a caregiver.

4404 (iii) The department shall make rules to regulate the practice of facilities and facility
4405 employees serving as designated caregivers under this Subsection (1)(b).

4406 (c) A parent or legal guardian described in Subsection 26B-4-213(2)(d), in consultation
4407 with the minor and the minor's qualified medical provider, may designate, through
4408 the state central patient portal, up to two individuals to serve as a designated
4409 caregiver for the minor, if the department determines that the parent or legal guardian

4410 is not eligible for a medical cannabis guardian card under Section 26B-4-213.

4411 (d) (i) [~~Beginning on the earlier of September 1, 2022, or the date on which the~~
4412 ~~electronic verification system is functionally capable of facilitating a conditional~~
4413 ~~medical cannabis caregiver card under this Subsection (1)(d), upon~~] Upon the
4414 entry of a caregiver designation under Subsection (1) by a patient with a terminal
4415 illness described in Section 26B-4-203, the department shall issue to the
4416 designated caregiver an electronic conditional medical cannabis caregiver card, in
4417 accordance with this Subsection (1)(d).

4418 (ii) A conditional medical cannabis caregiver card is valid for the lesser of:

4419 (A) 60 days; or

4420 (B) the day on which the department completes the department's review and issues
4421 a medical cannabis caregiver card under Subsection (1)(a), denies the patient's
4422 medical cannabis caregiver card application, or revokes the conditional
4423 medical cannabis caregiver card under 26B-4-246.

4424 (iii) The department may issue a conditional medical cannabis card to an individual
4425 applying for a medical cannabis patient card for which approval of the
4426 Compassionate Use Board is not required.

4427 (iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and
4428 obligations under law applicable to a holder of the medical cannabis card for
4429 which the individual applies and for which the department issues the conditional
4430 medical cannabis card.

4431 (2) An individual that the department registers as a designated caregiver under this section
4432 and a facility described in Subsection (1)(b):

4433 (a) for an individual designated caregiver, may carry a valid medical cannabis caregiver
4434 card;

4435 (b) in accordance with this part, may purchase, possess, transport, or assist the patient in
4436 the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal
4437 dosage form, or a medical cannabis device on behalf of the designating medical
4438 cannabis cardholder;

4439 (c) may not charge a fee to an individual to act as the individual's designated caregiver
4440 or for a service that the designated caregiver provides in relation to the role as a
4441 designated caregiver; and

4442 (d) may accept reimbursement from the designating medical cannabis cardholder for
4443 direct costs the designated caregiver incurs for assisting with the designating

- 4444 cardholder's medicinal use of cannabis.
- 4445 (3) (a) The department shall:
- 4446 (i) within 15 days after the day on which an individual submits an application in
- 4447 compliance with this section, issue a medical cannabis card to the applicant if the
- 4448 applicant:
- 4449 (A) is designated as a caregiver under Subsection (1);
- 4450 (B) is eligible for a medical cannabis caregiver card under Subsection (4); and
- 4451 (C) complies with this section; and
- 4452 (ii) notify the Department of Public Safety of each individual that the department
- 4453 registers as a designated caregiver.
- 4454 (b) The department shall ensure that a medical cannabis caregiver card contains the
- 4455 information described in Subsections (5)(b) and (3)(c)(i).
- 4456 (c) If a cardholder described in Section 26B-4-213 designates an individual as a
- 4457 caregiver who already holds a medical cannabis caregiver card, the individual with
- 4458 the medical cannabis caregiver card:
- 4459 (i) shall report to the department the information required of applicants under
- 4460 Subsection (5)(b) regarding the new designation;
- 4461 (ii) if the individual makes the report described in Subsection (3)(c)(i), is not required
- 4462 to file an application for another medical cannabis caregiver card;
- 4463 (iii) may receive an additional medical cannabis caregiver card in relation to each
- 4464 additional medical cannabis patient who designates the caregiver; and
- 4465 (iv) is not subject to an additional background check.
- 4466 (4) An individual is eligible for a medical cannabis caregiver card if the individual:
- 4467 (a) is at least 21 years old;
- 4468 (b) is a Utah resident;
- 4469 (c) pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5),
- 4470 the department sets in accordance with Section 63J-1-504, plus the cost of the
- 4471 criminal background check described in Section 26B-4-215;
- 4472 (d) signs an acknowledgment stating that the applicant received the information
- 4473 described in Subsection 26B-4-213(9) .
- 4474 (5) An eligible applicant for a medical cannabis caregiver card shall:
- 4475 (a) submit an application for a medical cannabis caregiver card to the department
- 4476 through an electronic application connected to the state electronic verification
- 4477 system; and

- (b) submit the following information in the application described in Subsection (5)(a):
- (i) the applicant's name, gender, age, and address;
 - (ii) the name, gender, age, and address of the cardholder described in Section 26B-4-213 who designated the applicant;
 - (iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder; and
 - (iv) any additional information that the department requests to assist in matching the application with the designating medical cannabis patient.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

- (a) an amount of time that the cardholder described in Section 26B-4-213 who designated the caregiver determines; or
- (b) the amount of time remaining before the card of the cardholder described in Section 26B-4-213 expires.

(7) (a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26B-4-213 who designated the caregiver:

- (i) renews the cardholder's card; and
- (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26B-4-213 who has designated a caregiver to:

- (i) signify that the cardholder renews the caregiver's designation;
- (ii) remove a caregiver's designation; or
- (iii) designate a new caregiver.

(8) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 46. Section **26B-4-222** is amended to read:

26B-4-222 (Effective 05/01/24). Report.

(1) By the November interim meeting each year, ~~[beginning in 2020,]~~ the department shall report to the Health and Human Services Interim Committee on:

- (a) the number of applications and renewal applications filed for medical cannabis cards;
- (b) the number of qualifying patients and designated caregivers;
- (c) the nature of the debilitating medical conditions of the qualifying patients;

- 4512 (d) the age and county of residence of cardholders;
4513 (e) the number of medical cannabis cards revoked;
4514 (f) the number of practitioners providing recommendations for qualifying patients;
4515 (g) the number of license applications and renewal license applications received;
4516 (h) the number of licenses the department has issued in each county;
4517 (i) the number of licenses the department has revoked;
4518 (j) the quantity of medical cannabis shipments that the state central patient portal
4519 facilitates;
4520 (k) the number of overall purchases of medical cannabis and medical cannabis products
4521 from each medical cannabis pharmacy;
4522 (l) the expenses incurred and revenues generated from the medical cannabis program;
4523 and
4524 (m) an analysis of product availability in medical cannabis pharmacies in [~~consultation~~]
4525 consultation with the Department of Agriculture and Food.
- 4526 (2) The report shall include information provided by the Center for Medical Cannabis
4527 Research described in Section 53B-17-1402.
- 4528 (3) The department may not include personally identifying information in the report
4529 described in this section.
- 4530 (4) The department shall report to the working group described in Section 36-12-8.2 as
4531 requested by the working group.
- 4532 Section 47. Section **26B-4-245** is amended to read:
- 4533 **26B-4-245 (Effective 05/01/24). Purchasing and use limitations.**
- 4534 An individual with a medical cannabis card:
- 4535 (1) may purchase, in any one 28-day period, up to the legal dosage limit of:
- 4536 (a) unprocessed cannabis in a medicinal dosage form; and
4537 (b) a cannabis product in a medicinal dosage form;
- 4538 (2) may not purchase:
- 4539 (a) more medical cannabis than described in Subsection (1)(a); or
4540 (b) if the relevant recommending medical provider did not recommend directions of use
4541 and dosing guidelines, until the individual consults with the pharmacy medical
4542 provider in accordance with Subsection [~~26B-4-231(4)~~] 26B-4-231(5), any medical
4543 cannabis; and
- 4544 (3) may not use a route of administration that the relevant recommending medical provider
4545 or the pharmacy medical provider, in accordance with Subsection [~~26B-4-231(4)~~]

4546 26B-4-231(5), has not recommended.

4547 Section 48. Section **26B-4-701** is amended to read:

4548 **26B-4-701 (Effective 05/01/24). Definitions.**

4549 As used in this part:

4550 (1) "Accredited clinical education program" means a clinical education program for a health
4551 care profession that is accredited by the Accreditation Council on Graduate Medical
4552 Education.

4553 (2) "Accredited clinical training program" means a clinical training program that is
4554 accredited by an entity recognized within medical education circles as an accrediting
4555 body for medical education, advanced practice nursing education, physician [assistance]
4556 assistant education, doctor of pharmacy education, dental education, or registered
4557 nursing education.

4558 (3) "Centers for Medicare and Medicaid Services" means the Centers for Medicare and
4559 Medicaid Services within the United States Department of Health and Human Services.

4560 (4) "Health care professionals in training" means medical students and residents, [advancee]
4561 advanced practice nursing students, physician assistant students, doctor of pharmacy
4562 students, dental students, and registered nursing students.

4563 (5) "Hospital" means a general acute hospital, as defined in Section 26B-2-201.

4564 (6) "Physician" means a person:

4565 (a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

4566 (b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical
4567 Practice Act.

4568 (7) "Rural county" means a county [~~with a population of less than 50,000, as determined by:~~]
4569 of the third, fourth, fifth, or sixth class under Section 17-50-501.

4570 [~~(a) the most recent official census or census estimate of the United States Bureau of~~
4571 ~~the Census; or]~~

4572 [~~(b) the most recent population estimate for the county from the Utah Population~~
4573 ~~Committee, if a population figure for the county is not available under Subsection~~
4574 ~~(7)(a).]~~

4575 (8) "Rural hospital" means a hospital located within a rural county.

4576 (9) "UMEC" means the Utah Medical Education Council created in Section 26B-4-706.

4577 Section 49. Section **26B-5-101** is amended to read:

4578 **26B-5-101 (Effective 05/01/24). Chapter definitions.**

4579 As used in this chapter:

- 4580 (1) "Criminal risk factors" means a person's characteristics and behaviors that:
4581 (a) affect the person's risk of engaging in criminal behavior; and
4582 (b) are diminished when addressed by effective treatment, supervision, and other support
4583 resources, resulting in reduced risk of criminal behavior.
- 4584 (2) "Director" means the director appointed under Section 26B-5-103.
- 4585 (3) "Division" means the Division of Integrated Healthcare created in Section [26B-1-202]
4586 26B-1-1202.
- 4587 (4) "Local mental health authority" means a county legislative body.
- 4588 (5) "Local substance abuse authority" means a county legislative body.
- 4589 (6) "Mental health crisis" means:
4590 (a) a mental health condition that manifests in an individual by symptoms of sufficient
4591 severity that a prudent layperson who possesses an average knowledge of mental
4592 health issues could reasonably expect the absence of immediate attention or
4593 intervention to result in:
4594 (i) serious danger to the individual's health or well-being; or
4595 (ii) a danger to the health or well-being of others; or
4596 (b) a mental health condition that, in the opinion of a mental health therapist or the
4597 therapist's designee, requires direct professional observation or intervention.
- 4598 (7) "Mental health crisis response training" means community-based training that educates
4599 laypersons and professionals on the warning signs of a mental health crisis and how to
4600 respond.
- 4601 (8) "Mental health crisis services" means an array of services provided to an individual who
4602 experiences a mental health crisis, which may include:
4603 (a) direct mental health services;
4604 (b) on-site intervention provided by a mobile crisis outreach team;
4605 (c) the provision of safety and care plans;
4606 (d) prolonged mental health services for up to 90 days after the day on which an
4607 individual experiences a mental health crisis;
4608 (e) referrals to other community resources;
4609 (f) local mental health crisis lines; and
4610 (g) the statewide mental health crisis line.
- 4611 (9) "Mental health therapist" means the same as that term is defined in Section 58-60-102.
- 4612 (10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental
4613 health professionals that, in coordination with local law enforcement and emergency

- 4614 medical service personnel, provides mental health crisis services.
- 4615 (11) "Office" means the Office of Substance Use and Mental Health created in Section
4616 26B-5-102.
- 4617 (12) (a) "Public funds" means federal money received from the department, and state
4618 money appropriated by the Legislature to the department, a county governing body,
4619 or a local substance abuse authority, or a local mental health authority for the
4620 purposes of providing substance abuse or mental health programs or services.
- 4621 (b) "Public funds" include federal and state money that has been transferred by a local
4622 substance abuse authority or a local mental health authority to a private provider
4623 under an annual or otherwise ongoing contract to provide comprehensive substance
4624 abuse or mental health programs or services for the local substance abuse authority or
4625 local mental health authority. The money maintains the nature of "public funds"
4626 while in the possession of the private entity that has an annual or otherwise ongoing
4627 contract with a local substance abuse authority or a local mental health authority to
4628 provide comprehensive substance use or mental health programs or services for the
4629 local substance abuse authority or local mental health authority.
- 4630 (c) Public funds received for the provision of services under substance use or mental
4631 health service plans may not be used for any other purpose except those authorized in
4632 the contract between the local mental health or substance abuse authority and
4633 provider for the provision of plan services.
- 4634 (13) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders,
4635 delusional disorders, psychotic disorders, and other mental disorders as defined by the
4636 division.
- 4637 (14) "Stabilization services" means in-home services provided to a child with, or who is at
4638 risk for, complex emotional and behavioral needs, including teaching the child's parent
4639 or guardian skills to improve family functioning.
- 4640 (15) "Statewide mental health crisis line" means the same as that term is defined in Section
4641 26B-5-610.
- 4642 (16) "System of care" means a broad, flexible array of services and supports that:
- 4643 (a) serve a child with or who is at risk for complex emotional and behavioral needs;
4644 (b) are community based;
4645 (c) are informed about trauma;
4646 (d) build meaningful partnerships with families and children;
4647 (e) integrate service planning, service coordination, and management across state and

4648 local entities;

4649 (f) include individualized case planning;

4650 (g) provide management and policy infrastructure that supports a coordinated network of
4651 interdepartmental service providers, contractors, and service providers who are
4652 outside of the department; and

4653 (h) are guided by the type and variety of services needed by a child with or who is at risk
4654 for complex emotional and behavioral needs and by the child's family.

4655 Section 50. Section **26B-5-403** is amended to read:

4656 **26B-5-403 (Effective 05/01/24). Residential and inpatient settings -- Commitment**
4657 **proceeding -- Child in physical custody of local mental health authority.**

4658 (1) A child may receive services from a local mental health authority in an inpatient or
4659 residential setting only after a commitment proceeding, for the purpose of transferring
4660 physical custody, has been conducted in accordance with the requirements of this
4661 section.

4662 (2) That commitment proceeding shall be initiated by a petition for commitment, and shall
4663 be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder,
4664 pursuant to the procedures and requirements of this section. If the findings described in
4665 Subsection (4) exist, the proceeding shall result in the transfer of physical custody to the
4666 appropriate local mental health authority, and the child may be placed in an inpatient or
4667 residential setting.

4668 (3) The neutral and detached fact finder who conducts the inquiry:

4669 (a) shall be a designated examiner; and

4670 (b) may not profit, financially or otherwise, from the commitment or physical placement
4671 of the child in that setting.

4672 (4) Upon determination by a fact finder that the following circumstances clearly exist, the
4673 fact finder may order that the child be committed to the physical custody of a local
4674 mental health authority:

4675 (a) the child has a mental illness;

4676 (b) the child demonstrates a reasonable fear of the risk of substantial danger to self or
4677 others;

4678 (c) the child will benefit from care and treatment by the local mental health authority;
4679 and

4680 (d) there is no appropriate less-restrictive alternative.

4681 (5) (a) The commitment proceeding before the neutral and detached fact finder shall be

- 4682 conducted in as informal manner as possible and in a physical setting that is not
4683 likely to have a harmful effect on the child.
- 4684 (b) The child, the child's parent or legal guardian, the petitioner, and a representative of
4685 the appropriate local mental health authority:
- 4686 (i) shall receive informal notice of the date and time of the proceeding; and
4687 (ii) may appear and address the petition for commitment.
- 4688 (c) The neutral and detached fact finder may, in the fact finder's discretion, receive the
4689 testimony of any other person.
- 4690 (d) The fact finder may allow a child to waive the child's right to be present at the
4691 commitment proceeding, for good cause shown. If that right is waived, the purpose of
4692 the waiver shall be made a matter of record at the proceeding.
- 4693 (e) At the time of the commitment proceeding, the appropriate local mental health
4694 authority, its designee, or the psychiatrist who has been in charge of the child's care
4695 prior to the commitment proceeding, shall provide the neutral and detached fact
4696 finder with the following information, as it relates to the period of current admission:
- 4697 (i) the petition for commitment;
4698 (ii) the admission notes;
4699 (iii) the child's diagnosis;
4700 (iv) physicians' orders;
4701 (v) progress notes;
4702 (vi) nursing notes; and
4703 (vii) medication records.
- 4704 (f) The information described in Subsection (5)(e) shall also be provided to the child's
4705 parent or legal guardian upon written request.
- 4706 (g) (i) The neutral and detached fact finder's decision of commitment shall state the
4707 duration of the commitment. Any commitment to the physical custody of a local
4708 mental health authority may not exceed 180 days. Prior to expiration of the
4709 commitment, and if further commitment is sought, a hearing shall be conducted in
4710 the same manner as the initial commitment proceeding, in accordance with the
4711 requirements of this section.
- 4712 (ii) At the conclusion of the hearing and subsequently in writing, when a decision for
4713 commitment is made, the neutral and detached fact finder shall inform the child
4714 and the child's parent or legal guardian of that decision and of the reasons for
4715 ordering commitment.

(iii) The neutral and detached fact finder shall state in writing the basis of the decision, with specific reference to each of the criteria described in Subsection (4), as a matter of record.

(6) A child may be temporarily committed for a maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health authority in accordance with the procedures described in Section 26B-5-331 and upon satisfaction of the risk factors described in Subsection (4). A child who is temporarily committed shall be released at the expiration of the 72 hours unless the procedures and findings required by this section for the commitment of a child are satisfied.

(7) A local mental health authority shall have physical custody of each child committed to it under this section. The parent or legal guardian of a child committed to the physical custody of a local mental health authority under this section, retains legal custody of the child, unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases when the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services has legal custody of a child, that division shall retain legal custody for purposes of this part.

(8) The cost of caring for and maintaining a child in the physical custody of a local mental health authority shall be assessed to and paid by the child's parents, according to their ability to pay. For purposes of this section, the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services shall be financially responsible, in addition to the child's parents, if the child is in the legal custody of either of those divisions at the time the child is committed to the physical custody of a local mental health authority under this section, unless Medicaid regulation or contract provisions specify otherwise. The Office of Recovery Services shall assist those divisions in collecting the costs assessed pursuant to this section.

(9) Whenever application is made for commitment of a minor to a local mental health authority under any provision of this section by a person other than the child's parent or guardian, the local mental health authority or its designee shall notify the child's parent or guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled proceeding.

(10) (a) Each child committed pursuant to this section is entitled to an appeal within 30 days after any order for commitment. The appeal may be brought on the child's own petition or on petition of the child's parent or legal guardian, to the juvenile court in the district where the child resides or is currently physically located. With regard to a

child in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services, the attorney general's office shall handle the appeal, otherwise the appropriate county attorney's office is responsible for appeals brought pursuant to this Subsection (10)(a).

(b) Upon receipt of the petition for appeal, the court shall appoint a designated examiner previously unrelated to the case, to conduct an examination of the child in accordance with the criteria described in Subsection (4), and file a written report with the court. The court shall then conduct an appeal hearing to determine whether the findings described in Subsection (4) exist by clear and convincing evidence.

(c) Prior to the time of the appeal hearing, the appropriate local mental health authority, its designee, or the mental health professional who has been in charge of the child's care prior to commitment, shall provide the court and the designated examiner for the appeal hearing with the following information, as it relates to the period of current admission:

(i) the original petition for commitment;

(ii) admission notes;

(iii) diagnosis;

(iv) physicians' orders;

(v) progress notes;

(vi) nursing notes; and

(vii) medication records.

(d) Both the neutral and detached fact finder and the designated examiner appointed for the appeal hearing shall be provided with an opportunity to review the most current information described in Subsection (10)(c) prior to the appeal hearing.

(e) The child, the child's parent or legal guardian, the person who submitted the original petition for commitment, and a representative of the appropriate local mental health authority shall be notified by the court of the date and time of the appeal hearing. Those persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the court shall review the record and findings of the neutral and detached fact finder, the report of the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion, allow or require the testimony of the neutral and detached fact finder, the designated examiner, the child, the child's parent or legal guardian, the person who brought the initial petition for commitment, or any other person whose testimony the court deems relevant. The court may allow the child to

waive the right to appear at the appeal hearing, for good cause shown. If that waiver is granted, the purpose shall be made a part of the court's record.

(11) Each local mental health authority has an affirmative duty to conduct periodic evaluations of the mental health and treatment progress of every child committed to its physical custody under this section, and to release any child who has sufficiently improved so that the criteria justifying commitment no longer exist.

(12) (a) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional may release an improved child to a less restrictive environment, as they determine appropriate. Whenever the local mental health authority or its designee, and the child's current treating mental health professional, determine that the conditions justifying commitment no longer exist, the child shall be discharged and released to the child's parent or legal guardian. With regard to a child who is in the physical custody of the State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the child's current treating mental health professional.

(b) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional, is authorized to issue a written order for the immediate placement of a child not previously released from an order of commitment into a more restrictive environment, if the local authority or its designee and the child's current treating mental health professional has reason to believe that the less restrictive environment in which the child has been placed is exacerbating the child's mental illness, or increasing the risk of harm to self or others.

(c) The written order described in Subsection (12)(b) shall include the reasons for placement in a more restrictive environment and shall authorize any peace officer to take the child into physical custody and transport the child to a facility designated by the appropriate local mental health authority in conjunction with the child's current treating mental health professional. Prior to admission to the more restrictive environment, copies of the order shall be personally delivered to the child, the child's parent or legal guardian, the administrator of the more restrictive environment, or the administrator's designee, and the child's former treatment provider or facility.

(d) If the child has been in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the child or the child's representative may request a review within 30 days of the change, by a neutral and detached fact finder as described in Subsection (3). The fact finder shall determine

whether:

(i) the less restrictive environment in which the child has been placed is exacerbating the child's mental illness or increasing the risk of harm to self or others; or

(ii) the less restrictive environment in which the child has been placed is not exacerbating the child's mental illness or increasing the risk of harm to self or others, in which case the fact finder shall designate that the child remain in the less restrictive environment.

(e) Nothing in this section prevents a local mental health authority or its designee, in conjunction with the child's current mental health professional, from discharging a child from commitment or from placing a child in an environment that is less restrictive than that designated by the neutral and detached fact finder.

(13) Each local mental health authority or its designee, in conjunction with the child's current treating mental health professional shall discharge any child who, in the opinion of that local authority, or its designee, and the child's current treating mental health professional, no longer meets the criteria specified in Subsection (4), except as provided by Section 26B-5-405. The local authority and the mental health professional shall assure that any further supportive services required to meet the child's needs upon release will be provided.

(14) Even though a child has been committed to the physical custody of a local mental health authority under this section, the child is still entitled to additional due process proceedings, in accordance with Section [26B-5-704] 26B-5-404, before any treatment that may affect a constitutionally protected liberty or privacy interest is administered. Those treatments include, but are not limited to, antipsychotic medication, electroshock therapy, and psychosurgery.

Section 51. Section **26B-6-401** is amended to read:

26B-6-401 (Effective 05/01/24). Definitions.

As used in this part:

(1) "Approved provider" means a person approved by the division to provide [~~home-based~~] home- and community-based services.

(2) "Board" means the Utah State Developmental Center Board created under Section 26B-1-429.

(3) (a) "Brain injury" means an acquired injury to the brain that is neurological in nature, including a cerebral vascular accident.

(b) "Brain injury" does not include a deteriorating disease.

- 4852 (4) "Designated intellectual disability professional" means:
- 4853 (a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act, who:
- 4854 (i) (A) has at least one year of specialized training in working with persons with
- 4855 an intellectual disability; or
- 4856 (B) has at least one year of clinical experience with persons with an intellectual
- 4857 disability; and
- 4858 (ii) is designated by the division as specially qualified, by training and experience, in
- 4859 the treatment of an intellectual disability; or
- 4860 (b) a clinical social worker, certified social worker, marriage and family therapist, or
- 4861 professional counselor, licensed under Title 58, Chapter 60, Mental Health
- 4862 Professional Practice Act, who:
- 4863 (i) has at least two years of clinical experience with persons with an intellectual
- 4864 disability; and
- 4865 (ii) is designated by the division as specially qualified, by training and experience, in
- 4866 the treatment of an intellectual disability.
- 4867 (5) "Deteriorating disease" includes:
- 4868 (a) multiple sclerosis;
- 4869 (b) muscular dystrophy;
- 4870 (c) Huntington's chorea;
- 4871 (d) Alzheimer's disease;
- 4872 (e) ataxia; or
- 4873 (f) cancer.
- 4874 (6) "Developmental center" means the Utah State Developmental Center, established in
- 4875 accordance with Part 5, Utah State Developmental Center.
- 4876 (7) "Director" means the director of the Division of Services for People with Disabilities.
- 4877 (8) "Direct service worker" means a person who provides services to a person with a
- 4878 disability:
- 4879 (a) when the services are rendered in:
- 4880 (i) the physical presence of the person with a disability; or
- 4881 (ii) a location where the person rendering the services has access to the physical
- 4882 presence of the person with a disability; and
- 4883 (b) (i) under a contract with the division;
- 4884 (ii) under a grant agreement with the division; or
- 4885 (iii) as an employee of the division.

- 4886 (9) (a) "Disability" means a severe, chronic disability that:
4887 (i) is attributable to:
4888 (A) an intellectual disability;
4889 (B) a condition that qualifies a person as a person with a related condition, as
4890 defined in 42 C.F.R. Sec. 435.1010;
4891 (C) a physical disability; or
4892 (D) a brain injury;
4893 (ii) is likely to continue indefinitely;
4894 (iii) (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in
4895 a substantial functional limitation in three or more of the following areas of
4896 major life activity:
4897 (I) self-care;
4898 (II) receptive and expressive language;
4899 (III) learning;
4900 (IV) mobility;
4901 (V) self-direction;
4902 (VI) capacity for independent living; or
4903 (VII) economic self-sufficiency; or
4904 (B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial
4905 limitation in three or more of the following areas:
4906 (I) memory or cognition;
4907 (II) activities of daily life;
4908 (III) judgment and self-protection;
4909 (IV) control of emotions;
4910 (V) communication;
4911 (VI) physical health; or
4912 (VII) employment; and
4913 (iv) requires a combination or sequence of special interdisciplinary or generic care,
4914 treatment, or other services that:
4915 (A) may continue throughout life; and
4916 (B) must be individually planned and coordinated.
4917 (b) "Disability" does not include a condition due solely to:
4918 (i) mental illness;
4919 (ii) personality disorder;

- 4920 (iii) deafness or being hard of hearing;
4921 (iv) visual impairment;
4922 (v) learning disability;
4923 (vi) behavior disorder;
4924 (vii) substance abuse; or
4925 (viii) the aging process.
- 4926 (10) "Division" means the Division of Services for People with Disabilities.
- 4927 (11) "Eligible to receive division services" or "eligibility" means qualification, based on
4928 criteria established by the division, to receive services that are administered by the
4929 division.
- 4930 (12) "Endorsed program" means a facility or program that:
4931 (a) is operated:
4932 (i) by the division; or
4933 (ii) under contract with the division; or
4934 (b) provides services to a person committed to the division under Part 6, Admission to
4935 an Intermediate Care Facility for People with an Intellectual Disability.
- 4936 (13) "Licensed physician" means:
4937 (a) an individual licensed to practice medicine under:
4938 (i) Title 58, Chapter 67, Utah Medical Practice Act; or
4939 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
4940 (b) a medical officer of the United States Government while in this state in the
4941 performance of official duties.
- 4942 (14) "Limited support services" means services that are administered by the division to
4943 individuals with a disability:
4944 (a) under a waiver authorized under 42 U.S.C. Sec. 1396n(c) by the Centers for
4945 Medicare and Medicaid Services that permits the division to limit services to an
4946 individual who is eligible to receive division services; and
4947 (b) through a program that:
4948 (i) was not operated by the division on or before January 1, 2020; and
4949 (ii) (A) limits the kinds of services that an individual may receive; or
4950 (B) sets a maximum total dollar amount for program services provided to each
4951 individual.
- 4952 (15) "Physical disability" means a medically determinable physical impairment that has
4953 resulted in the functional loss of two or more of a person's limbs.

4954 (16) "Public funds" means state or federal funds that are disbursed by the division.

4955 (17) "Resident" means an individual under observation, care, or treatment in an
4956 intermediate care facility for people with an intellectual disability.

4957 (18) "Sustainability fund" means the Utah State Developmental Center Long-Term
4958 Sustainability Fund created in Section 26B-1-331.

4959 Section 52. Section **26B-7-213** is amended to read:

4960 **26B-7-213 (Effective 05/01/24). Sexually transmitted infections -- Examinations**
4961 **by authorities -- Treatment of infected persons.**

4962 State, county, and municipal health officers within their respective jurisdictions may
4963 make examinations of persons reasonably suspected of being infected with [~~venereal~~
4964 ~~disease~~] sexually transmitted infections. Persons infected with [~~venereal disease~~] sexually
4965 transmitted infections shall be required to report for treatment to either a reputable
4966 physician or physician assistant and continue treatment until cured or to submit to
4967 treatment provided at public expense until cured.

4968 Section 53. Section **26B-7-215** is amended to read:

4969 **26B-7-215 (Effective 05/01/24). Sexually transmitted infections -- Examination**
4970 **and treatment of persons in prison or jail.**

4971 (1) (a) All persons confined in any state, county, or city prison or jail shall be examined,
4972 and if infected, treated for [~~venereal diseases~~] sexually transmitted infections by the
4973 health authorities.

4974 (b) The prison authorities of every state, county, or city prison or jail shall make
4975 available to the health authorities such portion of the prison or jail as may be
4976 necessary for a clinic or hospital wherein all persons suffering with [~~venereal disease~~]
4977 sexually transmitted infections at the time of the expiration of their terms of
4978 imprisonment, shall be isolated and treated at public expense until cured.

4979 (2) (a) The department may require persons suffering with [~~venereal disease~~] sexually
4980 transmitted infections at the time of the expiration of their terms of imprisonment to
4981 report for treatment to a licensed physician or physician assistant or submit to
4982 treatment provided at public expense in lieu of isolation.

4983 (b) Nothing in this section shall interfere with the service of any sentence imposed by a
4984 court as a punishment for the commission of crime.

4985 Section 54. Section **26B-8-201** is amended to read:

4986 **26B-8-201 (Effective 05/01/24). Definitions.**

4987 As used in this part:

- 4988 (1) "Dead body" means the same as that term is defined in Section 26B-8-101.
- 4989 (2) (a) "Death by violence" means death that resulted by the decedent's exposure to
4990 physical, mechanical, or chemical forces.
- 4991 (b) "Death by violence" includes death that appears to have been due to homicide, death
4992 that occurred during or in an attempt to commit rape, mayhem, kidnapping, robbery,
4993 burglary, housebreaking, extortion, or blackmail accompanied by threats of violence,
4994 assault with a dangerous weapon, assault with intent to commit any offense
4995 punishable by imprisonment for more than one year, arson punishable by
4996 imprisonment for more than one year, or any attempt to commit any of the foregoing
4997 offenses.
- 4998 (3) "Immediate relative" means an individual's spouse, child, parent, sibling, grandparent,
4999 or grandchild.
- 5000 (4) "Health care professional" means any of the following while acting in a professional
5001 capacity:
- 5002 (a) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
5003 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- 5004 (b) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
5005 Act; or
- 5006 (c) an advance practice registered nurse licensed under Subsection 58-31b-301(2)(e).
- 5007 (5) "Medical examiner" means the state medical examiner appointed pursuant to Section
5008 26B-8-202 or a deputy appointed by the medical examiner.
- 5009 (6) "Medical examiner record" means:
- 5010 (a) all information that the medical examiner obtains regarding a decedent; ~~and~~
- 5011 (b) reports that the medical examiner makes regarding a decedent ~~;~~ and
- 5012 (c) all administrative forms and correspondence related to a decedent's case.
- 5013 (7) "Regional pathologist" means ~~[a-trained]~~ an American Board of Pathology certified
5014 pathologist licensed to practice medicine and surgery in the state, appointed by the
5015 medical examiner pursuant to Subsection 26B-8-202(3).
- 5016 (8) "Sudden death while in apparent good health" means apparently instantaneous death
5017 without obvious natural cause, death during or following an unexplained syncope or
5018 coma, or death during an acute or unexplained rapidly fatal illness.
- 5019 (9) "Sudden ~~[infant death syndrome]~~ unexpected infant death" means the death of a child
5020 who was thought to be in good health or whose terminal illness appeared to be so mild
5021 that the possibility of a fatal outcome was not anticipated.

5022 (10) "Suicide" means death caused by an intentional and voluntary act of an individual who
5023 understands the physical nature of the act and intends by such act to accomplish
5024 self-destruction.

5025 (11) "Unattended death" means a death that occurs more than 365 days after the day on
5026 which a health care professional examined or treated the deceased individual for any
5027 purpose, including writing a prescription.

5028 (12) (a) "Unavailable for postmortem investigation" means that a dead body is:

- 5029 (i) transported out of state;
- 5030 (ii) buried at sea;
- 5031 (iii) cremated;
- 5032 (iv) processed by alkaline hydrolysis; or
- 5033 (v) otherwise made unavailable to the medical examiner for postmortem investigation
5034 or autopsy.

5035 (b) "Unavailable for postmortem investigation" does not include embalming or burial of
5036 a dead body pursuant to the requirements of law.

5037 (13) "Within the scope of the decedent's employment" means all acts reasonably necessary
5038 or incident to the performance of work, including matters of personal convenience and
5039 comfort not in conflict with specific instructions.

5040 Section 55. Section **26B-8-202** is amended to read:

5041 **26B-8-202 (Effective 05/01/24). Chief medical examiner -- Appointment --**
5042 **Qualifications -- Authority.**

5043 (1) The executive director~~[, with the advice of an advisory board consisting of the chairman~~
5044 ~~of the Department of Pathology at the University of Utah medical school and the dean of~~
5045 ~~the law school at the University of Utah,]~~ shall appoint a chief medical examiner who
5046 shall be licensed to practice medicine in the state and shall meet the qualifications of a
5047 forensic pathologist, certified by the American Board of Pathology.

5048 (2) (a) The medical examiner shall serve at the will of the executive director.

5049 (b) The medical examiner has authority to:

- 5050 (i) employ medical, technical and clerical personnel as may be required to effectively
5051 administer this chapter, subject to the rules of the department and the state merit
5052 system;
- 5053 (ii) conduct investigations and pathological examinations;
- 5054 (iii) perform autopsies authorized in this title;
- 5055 (iv) conduct or authorize necessary examinations on dead bodies; and

(v) notwithstanding the provisions of Subsection 26B-8-321(3), retain tissues and biological samples:

(A) for scientific purposes;

(B) where necessary to accurately certify the cause and manner of death; or

(C) for tissue from an unclaimed body, subject to Section 26B-8-225, in order to donate the tissue or biological sample to an individual who is affiliated with an established search and rescue dog organization, for the purpose of training a dog to search for human remains.

(c) In the case of an unidentified body, the medical examiner shall authorize or conduct investigations, tests and processes in order to determine its identity as well as the cause of death.

(3) The medical examiner may appoint regional pathologists, each of whom shall be approved by the executive director.

Section 56. Section **26B-8-203** is amended to read:

26B-8-203 (Effective 05/01/24). County medical examiners.

The county executive, with the advice and consent of the county legislative body and approval of the chief medical examiner, may appoint medical examiners for their respective counties.

Section 57. Section **26B-8-205** is amended to read:

26B-8-205 (Effective 05/01/24). Jurisdiction of medical examiner.

Upon notification under Section 26B-8-206 or investigation by the medical examiner's office, the medical examiner shall assume ~~[custody of]~~ jurisdiction over a deceased body if it appears that death:

(1) was by violence, gunshot, suicide, or accident;

(2) was sudden death while in apparent good health;

(3) occurred unattended, except that an autopsy may only be performed in accordance with the provisions of Subsection 26B-8-207(3);

(4) occurred under suspicious or unusual circumstances;

(5) resulted from poisoning or overdose of drugs;

(6) resulted from a disease that may constitute a threat to the public health;

(7) resulted from disease, injury, toxic effect, or unusual exertion incurred within the scope of the decedent's employment;

(8) was due to ~~[sudden infant death syndrome]~~ sudden unexpected infant death;

(9) occurred while the decedent was in prison, jail, police custody, the state hospital, or in a

5090 detention or medical facility operated for the treatment of persons with a mental illness,
5091 persons who are emotionally disturbed, or delinquent persons;
5092 (10) resulted directly from the actions of a law enforcement officer, as defined in Section
5093 53-13-103;
5094 (11) was associated with diagnostic or therapeutic procedures; or
5095 (12) was described in this section when request is made to assume custody by a county or
5096 district attorney or law enforcement agency in connection with a potential homicide
5097 investigation or prosecution.

5098 Section 58. Section **26B-8-207** is amended to read:

5099 **26B-8-207 (Effective 05/01/24). Custody of dead body and personal effects --**

5100 **Examination of scene of death -- Preservation of body -- Autopsies.**

- 5101 (1) (a) Upon notification of a death under Section 26B-8-206, the medical examiner
5102 shall assume [~~eustody of~~] jurisdiction over the deceased body, clothing on the body,
5103 biological samples taken, and any article on or near the body which may aid the
5104 medical examiner in determining the cause of death except those articles which will
5105 assist the investigative agency to proceed without delay with the investigation.
- 5106 (b) In all cases the scene of the event may not be disturbed until authorization is given
5107 by the senior ranking peace officer from the law enforcement agency having
5108 jurisdiction of the case and conducting the investigation.
- 5109 (c) Where death appears to have occurred under circumstances listed in Section
5110 26B-8-205, the person or persons finding or having custody of the body, or
5111 jurisdiction over the investigation of the death, shall take reasonable precautions to
5112 preserve the body and body fluids so that minimum deterioration takes place.
- 5113 (d) A person may not move a body [~~in the eustody~~] under the jurisdiction of the medical
5114 examiner unless:
- 5115 (i) the medical examiner, or district attorney or county attorney that has criminal
5116 jurisdiction, authorizes the person to move the body;
- 5117 (ii) a designee of an individual listed in this Subsection (1)(d) authorizes the person
5118 to move the body;
- 5119 (iii) not moving the body would be an affront to public decency or impractical; or
5120 (iv) the medical examiner determines the cause of death is likely due to natural
5121 causes.
- 5122 (e) The body can under direction of the medical examiner or the medical examiner's
5123 designee be moved to a place specified by the medical examiner or the medical

5124 examiner's designee.

5125 (2) (a) If the medical examiner has ~~[custody of]~~ jurisdiction over a body, a person may
5126 not clean or embalm the body without first obtaining the medical examiner's
5127 permission.

5128 (b) An intentional or knowing violation of Subsection (2)(a) is a class B misdemeanor.

5129 (3) (a) When the medical examiner assumes lawful ~~[custody of]~~ jurisdiction over a body
5130 under Subsection 26B-8-205(3) solely because the death was unattended, an autopsy
5131 may not be performed unless requested by the district attorney, county attorney
5132 having criminal jurisdiction, or law enforcement agency having jurisdiction of the
5133 place where the body is found.

5134 (b) The county attorney or district attorney and law enforcement agency having
5135 jurisdiction shall consult with the medical examiner to determine the need for an
5136 autopsy.

5137 (c) If the deceased chose not to be seen or treated by a health care professional for a
5138 spiritual or religious reason, a district attorney, county attorney, or law enforcement
5139 agency, may not request an autopsy or inquest under Subsection (3)(a) solely because
5140 of the deceased's choice.

5141 (d) The medical examiner or medical examiner's designee may not conduct a requested
5142 autopsy described in Subsection (3)(a) if the medical examiner or medical examiner's
5143 designee determines:

5144 (i) the request violates Subsection (3)(c); or

5145 (ii) the cause of death can be determined without performing an autopsy.

5146 Section 59. Section **26B-8-210** is amended to read:

5147 **26B-8-210 (Effective 05/01/24). Medical examiner to report death caused by**
5148 **prescribed controlled substance poisoning or overdose.**

5149 (1) If a medical examiner determines that the death of a person who is 12 years old or older
5150 at the time of death resulted from poisoning or overdose involving a~~[-prescribed]~~
5151 controlled substance prescribed to the decedent, the medical examiner shall, within three
5152 business days after the day on which the medical examiner determines the cause of
5153 death, send a written report to the Division of Professional Licensing, created in Section
5154 58-1-103, that includes:

5155 (a) the decedent's name;

5156 (b) each drug or other substance found in the decedent's system that may have
5157 contributed to the poisoning or overdose, if known; and

- 5158 (c) the name of each person the medical examiner has reason to believe may have
5159 prescribed a controlled substance described in Subsection (1)(b) to the decedent.
- 5160 (2) This section does not create a new cause of action.
- 5161 Section 60. Section **26B-8-217** is amended to read:
- 5162 **26B-8-217 (Effective 05/01/24). Records of medical examiner -- Confidentiality.**
- 5163 (1) The medical examiner shall maintain complete, original records for the medical
5164 examiner record, which shall:
- 5165 (a) be properly indexed, giving the name, if known, or otherwise identifying every
5166 individual whose death is investigated;
- 5167 (b) indicate the place where the body was found;
- 5168 (c) indicate the date of death;
- 5169 (d) indicate the cause and manner of death;
- 5170 (e) indicate the occupation of the decedent, if available;
- 5171 (f) include all other relevant information concerning the death; and
- 5172 (g) include a full report and detailed findings of the autopsy or report of the investigation.
- 5173 (2) (a) Upon written request from an individual described in Subsections (2)(a)(i)
5174 through (iv), the medical examiner shall provide a copy of the ~~[medical examiner's~~
5175 ~~final report of examination for the decedent, including the]~~ autopsy report, toxicology
5176 report, lab reports, ~~[and] investigative reports, documents generated by the medical~~
5177 ~~examiner related to any report, and any other specifically requested portions of the~~
5178 medical examiner record, if any, to any of the following:
- 5179 (i) a decedent's immediate relative;
- 5180 (ii) a decedent's legal representative;
- 5181 (iii) a physician or physician assistant who attended the decedent during the year
5182 before the decedent's death; or
- 5183 (iv) a county attorney, a district attorney, a criminal defense attorney, or other law
5184 enforcement official with jurisdiction, as necessary for the performance of the
5185 attorney or official's professional duties.
- 5186 (b) ~~[Upon]~~ Subject to Subsection (2)(c), upon written request from the director or a
5187 designee of the director of an entity described in Subsections (2)(b)(i) through (iv),
5188 the medical examiner may provide a copy of ~~[the of the medical examiner's final~~
5189 ~~report of examination for the decedent, including any other reports]~~ any medical
5190 examiner report or other portions of the medical examiner's record described in
5191 Subsection (2)(a), to any of the following entities as necessary for performance of the

- 5192 entity's official purposes:
- 5193 (i) a local health department;
- 5194 (ii) a local mental health authority;
- 5195 (iii) a public health authority; or
- 5196 (iv) another state or federal governmental agency.
- 5197 (c) The medical examiner may provide a copy of [~~the medical examiner's final report of~~
5198 ~~examination, including any other reports~~] a report or portion of the medical
5199 examiner's record described in Subsection (2)(a), if the [~~final~~] report or portion of the
5200 medical examiner's record relates to an issue of public health or safety, as further
5201 defined by rule made by the department in accordance with Title 63G, Chapter 3,
5202 Utah Administrative Rulemaking Act.
- 5203 (3) Reports provided under Subsection (2) may not include records that the medical
5204 examiner obtains from a third party in the course of investigating the decedent's death.
- 5205 (4) The medical examiner may provide a medical examiner record to a researcher who:
- 5206 (a) has an advanced degree;
- 5207 (b) (i) is affiliated with an accredited college or university, a hospital, or another
5208 system of care, including an emergency medical response or a local health agency;
5209 or
5210 (ii) is part of a research firm contracted with an accredited college or university, a
5211 hospital, or another system of care;
- 5212 (c) requests a medical examiner record for a research project or a quality improvement
5213 initiative that will have a public health benefit, as determined by the department; and
- 5214 (d) provides to the medical examiner an approval from:
- 5215 (i) the researcher's sponsoring organization; and
- 5216 (ii) the Utah Department of Health and Human Services Institutional Review Board.
- 5217 (5) Records provided under Subsection (4) may not include a third party record, unless:
- 5218 (a) a court has ordered disclosure of the third party record; and
- 5219 (b) disclosure is conducted in compliance with state and federal law.
- 5220 (6) A person who obtains a medical examiner record under Subsection (4) shall:
- 5221 (a) maintain the confidentiality of the medical examiner record by removing personally
5222 identifying information about a decedent or the decedent's family and any other
5223 information that may be used to identify a decedent before using the medical
5224 examiner record in research;
- 5225 (b) conduct any research within and under the supervision of the Office of the Medical

- 5226 Examiner, if the medical examiner record contains a third party record with
5227 personally identifiable information;
- 5228 (c) limit the use of a medical examiner record to the purpose for which the person
5229 requested the medical examiner record;
- 5230 (d) destroy a medical examiner record and the data abstracted from the medical
5231 examiner record at the conclusion of the research for which the person requested the
5232 medical examiner record;
- 5233 (e) reimburse the medical examiner, as provided in Section 26B-1-209, for any costs
5234 incurred by the medical examiner in providing a medical examiner record;
- 5235 (f) allow the medical examiner to review, before public release, a publication in which
5236 data from a medical examiner record is referenced or analyzed; and
- 5237 (g) provide the medical examiner access to the researcher's database containing data
5238 from a medical examiner record, until the day on which the researcher permanently
5239 destroys the medical examiner record and all data obtained from the medical
5240 examiner record.
- 5241 (7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah
5242 Administrative Rulemaking Act, and in consideration of applicable state and federal
5243 law, to establish permissible uses and disclosures of a medical examiner record or other
5244 record obtained under this section.
- 5245 (8) Except as provided in this chapter or ordered by a court, the medical examiner may not
5246 disclose any part of a medical examiner record.
- 5247 (9) A person who obtains a medical examiner record under Subsection (4) is guilty of a
5248 class B misdemeanor, if the person fails to comply with the requirements of Subsections
5249 (6)(a) through (d).
- 5250 Section 61. Section **26B-8-221** is amended to read:
- 5251 **26B-8-221 (Effective 05/01/24). Authority of county attorney or district attorney**
5252 **to subpoena witnesses and compel testimony -- Determination if decedent died by**
5253 **unlawful means.**
- 5254 (1) The district attorney or county attorney having criminal jurisdiction may subpoena
5255 witnesses and compel testimony concerning the death of any person and have such
5256 testimony reduced to writing under his direction and may employ a [~~shorthand~~] court
5257 reporter for that purpose at the same compensation as is allowed to reporters in the
5258 district courts. When the testimony has been taken down by the [~~shorthand~~] court
5259 reporter, a transcript thereof, duly certified, shall constitute the deposition of the witness.

- (2) Upon review of all facts and testimony taken concerning the death of a person, the district attorney or county attorney having criminal jurisdiction shall determine if the decedent died by unlawful means and shall also determine if criminal prosecution shall be instituted.

Section 62. Section **26B-8-223** is amended to read:

26B-8-223 (Effective 05/01/24). Authority of examiner to provide organ or other tissue for transplant purposes.

- (1) When requested by the licensed physician of a patient who is in need of an organ or other tissue for transplant purpose, by a legally created Utah eye bank, organ bank or medical facility, the medical examiner may provide an organ or other tissue if:
- (a) a decedent who may provide a suitable organ or other tissue for the transplant is in the custody of the medical examiner;
 - (b) the medical examiner is assured that the requesting party has made reasonable search for and inquiry of next of kin of the decedent and that no objection by the next of kin is known by the requesting party; and
 - (c) the removal of the organ or other tissue will not interfere with the investigation or autopsy or alter the post-mortem facial appearance.
- (2) When the medical examiner ~~[is in custody of]~~ has jurisdiction over a decedent who may provide a suitable organ or other tissue for transplant purposes, he may contact the appropriate eye bank, organ bank or medical facility and notify them concerning the suitability of the organ or other tissue. In such contact the medical examiner may disclose the name of the decedent so that necessary clearances can be obtained.
- (3) No person shall be held civilly or criminally liable for any acts performed pursuant to this section.

Section 63. Section **26B-8-225** is amended to read:

26B-8-225 (Effective 05/01/24). Burial of an unclaimed body -- Request by the school of medicine at the University of Utah -- Medical examiner may retain tissue for dog training.

- (1) Except as described in Subsection (2) or (3), a county shall provide, at the county's expense, decent ~~[burial for]~~ disposition of an unclaimed body found in the county.
- (2) A county is not responsible for decent ~~[burial]~~ disposition of an unclaimed body found in the county if the body is requested by the dean of the school of medicine at the University of Utah under Section 53B-17-301.
- (3) For an unclaimed body that is temporarily in the medical examiner's custody before [

burial] disposition under Subsection (1), the medical examiner may retain tissue from the unclaimed body in order to donate the tissue to an individual who is affiliated with an established search and rescue dog organization, for the purpose of training a dog to search for human remains.

Section 64. Section **26B-8-227** is amended to read:

26B-8-227 (Effective 05/01/24). Registry of unidentified deceased persons.

- (1) If the identity of a deceased person over which the medical examiner has jurisdiction under Section 26B-8-205 is unknown, the medical examiner shall do the following[
before releasing the body to the county in which the body was found as provided in Section 26B-8-225]:
- (a) assign a unique identifying number to the body;
 - (b) create and maintain a file under the assigned number;
 - (c) examine the body, take samples, and perform other related tasks for the purpose of deriving information that may be useful in ascertaining the identity of the deceased person;
 - (d) use the identifying number in all records created by the medical examiner that pertains to the body;
 - (e) record all information pertaining to the body in the file created and maintained under Subsection (1)(b);
 - (f) communicate the unique identifying number to the county in which the body was found; and
 - (g) access information from available government sources and databases in an attempt to ascertain the identity of the deceased person.
- [~~(2) A county which has received a body to which Subsection (1) applies:]~~
- ~~[(a) shall adopt and use the same identifying number assigned by Subsection (1) in all records created by the county that pertain to the body;]~~
 - ~~[(b) require any funeral director or sexton who is involved in the disposition of the body to adopt and use the same identifying number assigned by Subsection (1) in all records created by the funeral director or sexton pertaining to the body; and]~~
 - ~~[(c) shall provide a decent burial for the body.]~~
- [~~(3) Within 30 days of receiving a body to which Subsection (1) applies, the county shall inform the medical examiner of the disposition of the body including the burial plot. The medical examiner shall record this information in the file created and maintained under Subsection (1)(b).]~~

5328 ~~[(4) The requirements of Subsections (1) and (6) apply to a county examiner appointed~~
5329 ~~under Section 26B-8-203, with the additional requirements that the county examiner:]~~
5330 ~~[(a) obtain a unique identifying number from the medical examiner for the body; and]~~
5331 ~~[(b) send to the medical examiner a copy of the file created and maintained in accordance~~
5332 ~~with Subsection (1)(b), including the disposition of the body and burial plot, within 30~~
5333 ~~days of releasing the body.]~~

5334 ~~[(5) The medical examiner shall maintain a file received under Subsection (4) in the same~~
5335 ~~way that it maintains a file created and maintained by the medical examiner in~~
5336 ~~accordance with Subsection (1)(b).]~~

5337 ~~[(6)]~~ (2) The medical examiner shall cooperate and share information generated and
5338 maintained under this section with a person who demonstrates:
5339 (a) a legitimate personal or governmental interest in determining the identity of a
5340 deceased person; and
5341 (b) a reasonable belief that the body of that deceased person may have come into the
5342 custody of the medical examiner.

5343 Section 65. Section **26B-8-229** is amended to read:

5344 **26B-8-229 (Effective 05/01/24). Psychological autopsy examiner.**

5345 (1) With funds appropriated by the Legislature for this purpose, the department shall
5346 provide compensation, at a standard rate determined by the department, to a
5347 psychological autopsy examiner.

5348 (2) The psychological autopsy examiner shall:

- 5349 (a) work with the medical examiner to compile data regarding suicide related deaths;
5350 (b) as relatives, associates, and acquaintances of the deceased are willing, gather
5351 information~~[from relatives of the deceased]~~ regarding the ~~[psychological reasons~~
5352 ~~for]~~ circumstances that preceded the decedent's death;
5353 (c) maintain a database of information described in Subsections (2)(a) and (b);
5354 (d) in accordance with all applicable privacy laws subject to approval by the department,
5355 share the database described in Subsection (2)(c) with the University of Utah
5356 Department of Psychiatry or other university-based departments conducting research
5357 on suicide;
5358 (e) coordinate no less than monthly with the suicide prevention coordinator described in
5359 Subsection 26B-5-611(2); and
5360 (f) coordinate no less than quarterly with the state suicide prevention coalition.

5361 Section 66. Section **34A-6-107** is amended to read:

34A-6-107 (Effective 05/01/24). Research and related activities.

- (1) (a) The division, after consultation with other appropriate agencies, shall conduct, directly or by grants or contracts, whether federal or otherwise, research, experiments, and demonstrations in the area of occupational safety and health, including studies of psychological factors involved in innovative methods, techniques, and approaches for dealing with occupational safety and health problems.
- (b) (i) The division, to comply with its responsibilities under this section, and to develop needed information regarding toxic substances or harmful physical agents, may make rules requiring employers to measure, record, and make reports on the exposure of employees to substances or physical agents reasonably believed to endanger the health or safety of employees.
- (ii) The division may establish programs for medical examinations and tests necessary for determining the incidence of occupational diseases and the susceptibility of employees to the diseases.
- (iii) Nothing in this chapter authorizes or requires a medical examination, immunization, or treatment for persons who object on religious grounds, except when necessary for the protection of the health or safety of others.
- (iv) Any employer who is required to measure and record employee exposure to substances or physical agents as provided under Subsection (1)(b) may receive full or partial financial or other assistance to defray additional expense incurred by measuring and recording as provided in this Subsection (1)(b).
- (c) (i) Following a written request by any employer or authorized representative of employees, specifying with reasonable particularity the grounds on which the request is made, the division shall determine whether any substance normally found in a workplace has toxic effects in the concentrations used or found, and shall submit its determination both to employers and affected employees as soon as possible.
- (ii) The division shall immediately take action necessary under Section 34A-6-202 or 34A-6-305 if the division determines that:
- (A) any substance is toxic at the concentrations used or found in a workplace; and
- (B) the substance is not covered by an occupational safety or health standard promulgated under Section 34A-6-202.
- (2) The division may inspect and question employers and employees as provided in Section 34A-6-301, to carry out its functions and responsibilities under this section.

5396 (3) The division is authorized to enter into contracts, agreements, or other arrangements
5397 with appropriate federal or state agencies, or private organizations to conduct studies
5398 about its responsibilities under this chapter. In carrying out its responsibilities under this
5399 subsection, the division shall cooperate with the Department of [Health] Health and
5400 Human Services and the Department of Environmental Quality to avoid any duplication
5401 of efforts under this section.

5402 (4) Information obtained by the division under this section shall be disseminated to
5403 employers and employees and organizations of them.

5404 Section 67. Section **53-2a-802** is amended to read:

5405 **53-2a-802 (Effective 05/01/24). Definitions.**

5406 (1) (a) "Absent" means:

5407 (i) not physically present or not able to be communicated with for 48 hours; or

5408 (ii) for local government officers, as defined by local ordinances.

5409 (b) "Absent" does not include a person who can be communicated with via telephone,
5410 radio, or telecommunications.

5411 (2) "Department" means the Department of Government Operations, the Department of
5412 Agriculture and Food, the Alcoholic Beverage Services Commission, the Department of
5413 Commerce, the Department of Cultural and Community Engagement, the Department of
5414 Corrections, the Department of Environmental Quality, the Department of Financial
5415 Institutions, the Department of [Health] Health and Human Services, the Department of
5416 Workforce Services, the Labor Commission, the National Guard, the Department of
5417 Insurance, the Department of Natural Resources, the Department of Public Safety, the
5418 Public Service Commission, [~~the Department of Human Services,~~]the State Tax
5419 Commission, the Department of Transportation, any other major administrative
5420 subdivisions of state government, the State Board of Education, the Utah Board of
5421 Higher Education, the Utah Housing Corporation, the State Retirement Board, and each
5422 institution of higher education within the system of higher education.

5423 (3) "Division" means the Division of Emergency Management established in Title 53,
5424 Chapter 2a, Part 1, Emergency Management Act.

5425 (4) "Emergency interim successor" means a person designated by this part to exercise the
5426 powers and discharge the duties of an office when the person legally exercising the
5427 powers and duties of the office is unavailable.

5428 (5) "Executive director" means the person with ultimate responsibility for managing and
5429 overseeing the operations of each department, however denominated.

- 5430 (6) (a) "Office" includes all state and local offices, the powers and duties of which are
5431 defined by constitution, statutes, charters, optional plans, ordinances, articles, or
5432 by-laws.
- 5433 (b) "Office" does not include the office of governor or the legislative or judicial offices.
- 5434 (7) "Place of governance" means the physical location where the powers of an office are
5435 being exercised.
- 5436 (8) "Political subdivision" includes counties, cities, towns, metro townships, districts,
5437 authorities, and other public corporations and entities whether organized and existing
5438 under charter or general law.
- 5439 (9) "Political subdivision officer" means a person holding an office in a political
5440 subdivision.
- 5441 (10) "State officer" means the attorney general, the state treasurer, the state auditor, and the
5442 executive director of each department.
- 5443 (11) "Unavailable" means:
- 5444 (a) absent from the place of governance during a disaster that seriously disrupts normal
5445 governmental operations, whether or not that absence or inability would give rise to a
5446 vacancy under existing constitutional or statutory provisions; or
- 5447 (b) as otherwise defined by local ordinance.
- 5448 Section 68. Section **53-2d-404** is amended to read:
- 5449 **53-2d-404 (Effective 07/01/24). Permits for emergency medical service vehicles**
5450 **and nonemergency secured behavioral health transport vehicles.**
- 5451 (1) (a) To ensure that emergency medical service vehicles and nonemergency secured
5452 behavioral health transport vehicles are adequately staffed, safe, maintained, properly
5453 equipped, and safely operated, the committee shall establish permit requirements at
5454 levels it considers appropriate in the following categories:
- 5455 (i) ambulance;
- 5456 (ii) emergency medical response vehicle; and
- 5457 (iii) nonemergency secured behavioral health transport vehicle.
- 5458 (b) The permit requirements under Subsections (1)(a)(i) and (ii) shall include a
5459 requirement that~~[beginning on or after January 31, 2014,]~~ every operator of an
5460 ambulance or emergency medical response vehicle annually provide proof of the
5461 successful completion of an emergency vehicle operator's course approved by the
5462 bureau for all ambulances and emergency medical response vehicle operators.
- 5463 (2) The bureau shall, based on the requirements established in Subsection (1), issue permits

to emergency medical service vehicles and nonemergency secured behavioral health transport vehicles.

Section 69. Section **53-2d-503** is amended to read:

53-2d-503 (Effective 07/01/24). Establishment of maximum rates.

- (1) The bureau shall, after receiving recommendations under Subsection (2), establish maximum rates for ground ambulance providers and paramedic providers that are just and reasonable.
- (2) The committee may make recommendations to the bureau on the maximum rates that should be set under Subsection (1).
- (3) (a) ~~[The bureau shall prohibit ground]~~ Ground ambulance providers and paramedic providers ~~[from charging]~~ may not charge fees for transporting a patient when the provider does not transport the patient.
- (b) The provisions of Subsection (3)(a) do not apply to ambulance providers or paramedic providers in a geographic service area which contains a town as defined in Subsection 10-2-301(2)(f).

Section 70. Section **53-2d-703** is amended to read:

53-2d-703 (Effective 07/01/24). Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board.

- (1) As used in this section:
 - (a) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.
 - (b) "Local government entity" means a political subdivision that:
 - (i) is licensed as a ground ambulance provider under Part 5, Ambulance and Paramedic Providers; and
 - (ii) ~~[as of January 1, 2022,]~~ does not offer health insurance benefits to volunteer emergency medical service personnel.
 - (c) "PEHP" means the Public Employees' Benefit and Insurance Program created in Section 49-20-103.
 - (d) "Political subdivision" means a county, a municipality, a limited purpose government entity described in Title 17B, Limited Purpose Local Government Entities - Special Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.
 - (e) "Qualifying association" means an association that represents two or more political

- 5498 subdivisions in the state.
- 5499 (2) The Volunteer Emergency Medical Service Personnel Health Insurance Program shall
5500 promote recruitment and retention of volunteer emergency medical service personnel by
5501 making health insurance available to volunteer emergency medical service personnel.
- 5502 (3) The bureau shall contract with a qualifying association to create, implement, and
5503 administer the Volunteer Emergency Medical Service Personnel Health Insurance
5504 Program described in this section.
- 5505 (4) Participation in the program is limited to emergency medical service personnel who:
5506 (a) are licensed under Section 53-2d-402 and are able to perform all necessary functions
5507 associated with the license;
5508 (b) provide emergency medical services under the direction of a local governmental
5509 entity:
5510 (i) by responding to 20% of calls for emergency medical services in a rolling
5511 twelve-month period;
5512 (ii) within a county of the third, fourth, fifth, or sixth class; and
5513 (iii) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R.
5514 Sec. 553.106;
5515 (c) are not eligible for a health benefit plan through an employer or a spouse's employer;
5516 (d) are not eligible for medical coverage under a government sponsored healthcare
5517 program; and
5518 (e) reside in the state.
- 5519 (5) (a) A participant in the program is eligible to participate in PEHP in accordance with
5520 Subsection (5)(b) and Subsection 49-20-201(3).
5521 (b) Benefits available to program participants under PEHP are limited to health
5522 insurance that:
5523 (i) covers the program participant and the program participant's eligible dependents
5524 on a July 1 plan year;
5525 (ii) accepts enrollment during an open enrollment period or for a special enrollment
5526 event, including the initial eligibility of a program participant;
5527 (iii) if the program participant is no longer eligible for benefits, terminates on the last
5528 day of the last month for which the individual is a participant in the Volunteer
5529 Emergency Medical Service Personnel Health Insurance Program; and
5530 (iv) is not subject to continuation rights under state or federal law.
- 5531 (6) (a) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, to define additional criteria regarding benefit design and eligibility for the program.

(b) The bureau shall convene an advisory board:

(i) to advise the bureau on making rules under Subsection (6)(a); and

(ii) that includes representation from at least the following entities:

(A) the qualifying association that receives the contract under Subsection (3); and

(B) PEHP.

(7) For purposes of this section, the qualifying association that receives the contract under Subsection (3) shall be considered the public agency for whom the program participant is volunteering under 29 C.F.R. Sec. 553.101.

Section 71. Section **53-10-404** is amended to read:

53-10-404 (Effective 05/01/24). DNA specimen analysis -- Requirement to obtain the specimen.

(1) As used in this section, "person" refers to any person as described under Section 53-10-403.

(2) (a) A person under Section 53-10-403 or any person required to register as a sex offender under Title 77, Chapter 41, Sex and Kidnap Offender Registry, shall provide a DNA specimen and shall reimburse the agency responsible for obtaining the DNA specimen \$150 for the cost of obtaining the DNA specimen unless:

(i) the person was booked under Section 53-10-403 and is not required to reimburse the agency under Section 53-10-404.5; or

(ii) the agency determines the person lacks the ability to pay.

(b) (i) (A) The responsible agencies shall establish guidelines and procedures for determining if the person is able to pay the fee.

(B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to determine an inmate's ability to pay.

(ii) An agency's guidelines and procedures may provide for the assessment of \$150 on the inmate's county trust fund account and may allow a negative balance in the account until the \$150 is paid in full.

(3) (a) (i) All fees collected under Subsection (2) shall be deposited in the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than \$25 per individual specimen for the costs of obtaining the saliva DNA specimen.

(ii) The agency collecting the \$150 fee may not retain from each separate fee more

- 5566 than \$25, and no amount of the \$150 fee may be credited to any other fee or
5567 agency obligation.
- 5568 (b) The responsible agency shall determine the method of collecting the DNA specimen.
5569 Unless the responsible agency determines there are substantial reasons for using a
5570 different method of collection or the person refuses to cooperate with the collection,
5571 the preferred method of collection shall be obtaining a saliva specimen.
- 5572 (c) The responsible agency may use reasonable force, as established by its guidelines
5573 and procedures, to collect the DNA sample if the person refuses to cooperate with the
5574 collection.
- 5575 (d) If the judgment places the person on probation, the person shall submit to the
5576 obtaining of a DNA specimen as a condition of the probation.
- 5577 (e) (i) Under this section a person is required to provide one DNA specimen and pay
5578 the collection fee as required under this section.
- 5579 (ii) The person shall provide an additional DNA specimen only if the DNA specimen
5580 previously provided is not adequate for analysis.
- 5581 (iii) The collection fee is not imposed for a second or subsequent DNA specimen
5582 collected under this section.
- 5583 (f) Any agency that is authorized to obtain a DNA specimen under this part may collect
5584 any outstanding amount of a fee due under this section from any person who owes
5585 any portion of the fee and deposit the amount in the DNA Specimen Restricted
5586 Account created in Section 53-10-407.
- 5587 (4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as
5588 possible and transferred to the Department of Public Safety:
- 5589 (i) after a conviction or a finding of jurisdiction by the juvenile court;
- 5590 (ii) on and after January 1, 2011, through December 31, 2014, after the booking of a
5591 person for any offense under Subsection 53-10-403(1)(c); and
- 5592 (iii) on and after January 1, 2015, after the booking of a person for any felony
5593 offense, as provided under Subsection 53-10-403(1)(d)(ii).
- 5594 (b) On and after May 13, 2014, through December 31, 2014, the responsible agency may
5595 cause a DNA specimen to be obtained and transferred to the Department of Public
5596 Safety after the booking of a person for any felony offense, as provided under
5597 Subsection 53-10-403(1)(d)(i).
- 5598 (c) If notified by the Department of Public Safety that a DNA specimen is not adequate
5599 for analysis, the agency shall, as soon as possible:

- 5600 (i) obtain and transmit an additional DNA specimen; or
- 5601 (ii) request that another agency that has direct access to the person and that is
- 5602 authorized to collect DNA specimens under this section collect the necessary
- 5603 second DNA specimen and transmit it to the Department of Public Safety.
- 5604 (d) Each agency that is responsible for collecting DNA specimens under this section
- 5605 shall establish:
- 5606 (i) a tracking procedure to record the handling and transfer of each DNA specimen it
- 5607 obtains; and
- 5608 (ii) a procedure to account for the management of all fees it collects under this
- 5609 section.
- 5610 (5) (a) The Department of Corrections is the responsible agency whenever the person is
- 5611 committed to the custody of or is under the supervision of the Department of
- 5612 Corrections.
- 5613 (b) The juvenile court is the responsible agency regarding a minor under Subsection
- 5614 53-10-403(3), but if the minor has been committed to the legal custody of the [
- 5615 ~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services,
- 5616 that division is the responsible agency if a DNA specimen of the minor has not
- 5617 previously been obtained by the juvenile court under Section 80-6-608.
- 5618 (c) The sheriff operating a county jail is the responsible agency regarding the collection
- 5619 of DNA specimens from persons who:
- 5620 (i) have pled guilty to or have been convicted of an offense listed under Subsection
- 5621 53-10-403(2) but who have not been committed to the custody of or are not under
- 5622 the supervision of the Department of Corrections;
- 5623 (ii) are incarcerated in the county jail:
- 5624 (A) as a condition of probation for a felony offense; or
- 5625 (B) for a misdemeanor offense for which collection of a DNA specimen is
- 5626 required;
- 5627 (iii) on and after January 1, 2011, through May 12, 2014, are booked at the county
- 5628 jail for any offense under Subsection 53-10-403(1)(c).; and
- 5629 (iv) are booked at the county jail:
- 5630 (A) by a law enforcement agency that is obtaining a DNA specimen for any felony
- 5631 offense on or after May 13, 2014, through December 31, 2014, under
- 5632 Subsection 53-10-404(4)(b); or
- 5633 (B) on or after January 1, 2015, for any felony offense.

- (d) Each agency required to collect a DNA specimen under this section shall:
- (i) designate employees to obtain the saliva DNA specimens required under this section; and
 - (ii) ensure that employees designated to collect the DNA specimens receive appropriate training and that the specimens are obtained in accordance with generally accepted protocol.
- (6) (a) As used in this Subsection (6), "department" means the Department of Corrections.
- (b) Priority of obtaining DNA specimens by the department is:
- (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody of or under the supervision of the department before these persons are released from incarceration, parole, or probation, if their release date is prior to that of persons under Subsection (6)(b)(ii), but in no case later than July 1, 2004; and
 - (ii) second, the department shall obtain DNA specimens from persons who are committed to the custody of the department or who are placed under the supervision of the department after July 1, 2002, within 120 days after the commitment, if possible, but not later than prior to release from incarceration if the person is imprisoned, or prior to the termination of probation if the person is placed on probation.
- (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii) is:
- (i) first, persons on probation;
 - (ii) second, persons on parole; and
 - (iii) third, incarcerated persons.
- (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA specimens from persons in the custody of or under the supervision of the Department of Corrections as of July 1, 2002, prior to their release.
- (7) (a) As used in this Subsection (7):
- (i) "Court" means the juvenile court.
 - (ii) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services.
- (b) Priority of obtaining DNA specimens by the court from minors under Section

53-10-403 whose cases are under the jurisdiction of the court but who are not in the legal custody of the division shall be:

(i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under the court's jurisdiction, before the court's jurisdiction over the minors' cases terminates; and

(ii) second, to obtain specimens from minors whose cases are under the jurisdiction of the court after July 1, 2002, within 120 days of the minor's case being found to be within the court's jurisdiction, if possible, but no later than before the court's jurisdiction over the minor's case terminates.

(c) Priority of obtaining DNA specimens by the division from minors under Section 53-10-403 who are committed to the legal custody of the division shall be:

(i) first, to obtain specimens from minors who as of July 1, 2002, are within the division's legal custody and who have not previously provided a DNA specimen under this section, before termination of the division's legal custody of these minors; and

(ii) second, to obtain specimens from minors who are placed in the legal custody of the division after July 1, 2002, within 120 days of the minor's being placed in the custody of the division, if possible, but no later than before the termination of the court's jurisdiction over the minor's case.

(8) (a) The Department of Corrections, the juvenile court, the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services, and all law enforcement agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens, and shall provide training for employees designated to collect saliva DNA specimens.

(b) (i) The department may designate correctional officers, including those employed by the adult probation and parole section of the department, to obtain the saliva DNA specimens required under this section.

(ii) The department shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

Section 72. Section **53-10-407** is amended to read:

53-10-407 (Effective 05/01/24). DNA Specimen Restricted Account.

(1) There is created the DNA Specimen Restricted Account, which is referred to in this section as "the account."

- 5702 (2) The sources of money for the account are:
- 5703 (a) DNA collection fees paid under Section 53-10-404;
- 5704 (b) any appropriations made to the account by the Legislature; and
- 5705 (c) all federal money provided to the state for the purpose of funding the collection or
- 5706 analysis of DNA specimens collected under Section 53-10-403.
- 5707 (3) The account shall earn interest, and this interest shall be deposited in the account.
- 5708 (4) The Legislature may appropriate money from the account solely for the following
- 5709 purposes:
- 5710 (a) to the Department of Corrections for the costs of collecting DNA specimens as
- 5711 required under Section 53-10-403;
- 5712 (b) to the juvenile court for the costs of collecting DNA specimens as required under
- 5713 Sections 53-10-403 and 80-6-608;
- 5714 (c) to the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth
- 5715 Services for the costs of collecting DNA specimens as required under Sections
- 5716 53-10-403 and 80-5-201; and
- 5717 (d) to the Department of Public Safety for the costs of:
- 5718 (i) storing and analyzing DNA specimens in accordance with the requirements of this
- 5719 part;
- 5720 (ii) DNA testing which cannot be performed by the Utah State Crime Lab, as
- 5721 provided in Subsection 78B-9-301(7); and
- 5722 (iii) reimbursing sheriffs for collecting the DNA specimens as provided under
- 5723 Sections 53-10-404 and 53-10-404.5.
- 5724 (5) Appropriations from the account to the Department of Corrections, the juvenile court,
- 5725 the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth
- 5726 Services, and to the Department of Public Safety are nonlapsing.
- 5727 Section 73. Section **53E-10-301** is amended to read:
- 5728 **53E-10-301 (Effective 05/01/24). Definitions.**
- 5729 As used in this part:
- 5730 (1) "Career and technical education course" means a concurrent enrollment course in career
- 5731 and technical education, as determined by the policy established by the Utah Board of
- 5732 Higher Education under Section 53E-10-302.
- 5733 (2) "Concurrent enrollment" means enrollment in a course offered through the concurrent
- 5734 enrollment program described in Section 53E-10-302.
- 5735 (3) "Educator" means the same as that term is defined in Section 53E-6-102.

- 5736 (4) "Eligible instructor" means an instructor who meets the requirements described in
5737 Subsection 53E-10-302(6).
- 5738 (5) "Eligible student" means a student who:
- 5739 (a) (i) is enrolled in, and counted in average daily membership in, a public school
5740 within the state; or
- 5741 (ii) is in the custody of the [~~Division of Juvenile Justice Services~~] Division of Juvenile
5742 Justice and Youth Services and subject to the jurisdiction of the Youth Parole
5743 Authority;
- 5744 (b) has on file a plan for college and career readiness as described in Section 53E-2-304;
5745 and
- 5746 (c) is in grade 9, 10, 11, or 12.
- 5747 (6) "Institution of higher education" means an institution described in Subsection 53B-1-102
5748 (1)(a).
- 5749 (7) "License" means the same as that term is defined in Section 53E-6-102.
- 5750 (8) "Local education agency" or "LEA" means a school district or charter school.
- 5751 (9) "Qualifying experience" means an LEA employee's experience in an academic field that:
- 5752 (a) qualifies the LEA employee to teach a concurrent enrollment course in the academic
5753 field; and
- 5754 (b) may include the LEA employee's:
- 5755 (i) number of years teaching in the academic field;
- 5756 (ii) holding a higher level secondary teaching credential issued by the state board;
- 5757 (iii) research, publications, or other scholarly work in the academic field;
- 5758 (iv) continuing professional education in the academic field;
- 5759 (v) portfolio of work related to the academic field; or
- 5760 (vi) professional work experience or certifications in the academic field.
- 5761 (10) "Value of the weighted pupil unit" means the amount established each year in the
5762 enacted public education budget that is multiplied by the number of weighted pupil units
5763 to yield the funding level for the basic state-supported school program.
- 5764 Section 74. Section **53G-8-211** is amended to read:
- 5765 **53G-8-211 (Effective 05/01/24). Responses to school-based behavior.**
- 5766 (1) As used in this section:
- 5767 (a) "Evidence-based" means a program or practice that has:
- 5768 (i) had multiple randomized control studies or a meta-analysis demonstrating that the
5769 program or practice is effective for a specific population;

- 5770 (ii) been rated as effective by a standardized program evaluation tool; or
5771 (iii) been approved by the state board.
- 5772 (b) "Habitual truant" means a school-age child who:
5773 (i) is in grade 7 or above, unless the school-age child is under 12 years old;
5774 (ii) is subject to the requirements of Section 53G-6-202; and
5775 (iii) (A) is truant at least 10 times during one school year; or
5776 (B) fails to cooperate with efforts on the part of school authorities to resolve the
5777 school-age child's attendance problem as required under Section 53G-6-206.
- 5778 (c) "Minor" means the same as that term is defined in Section 80-1-102.
- 5779 (d) "Mobile crisis outreach team" means the same as that term is defined in Section [
5780 ~~62A-15-102~~] 26B-5-101.
- 5781 (e) "Prosecuting attorney" means the same as that term is defined in Subsections
5782 80-1-102(65)(b) and (c).
- 5783 (f) "Restorative justice program" means a school-based program or a program used or
5784 adopted by a local education agency that is designed:
5785 (i) to enhance school safety, reduce school suspensions, and limit referrals to law
5786 enforcement agencies and courts; and
5787 (ii) to help minors take responsibility for and repair harmful behavior that occurs in
5788 school.
- 5789 (g) "School administrator" means a principal of a school.
- 5790 (h) "School is in session" means a day during which the school conducts instruction for
5791 which student attendance is counted toward calculating average daily membership.
- 5792 (i) "School resource officer" means a law enforcement officer, as defined in Section
5793 53-13-103, who contracts with, is employed by, or whose law enforcement agency
5794 contracts with a local education agency to provide law enforcement services for the
5795 local education agency.
- 5796 (j) "School-age child" means the same as that term is defined in Section 53G-6-201.
- 5797 (k) (i) "School-sponsored activity" means an activity, fundraising event, club, camp,
5798 clinic, or other event or activity that is authorized by a specific local education
5799 agency or public school, according to LEA governing board policy, and satisfies
5800 at least one of the following conditions:
5801 (A) the activity is managed or supervised by a local education agency or public
5802 school, or local education agency or public school employee;
5803 (B) the activity uses the local education agency's or public school's facilities,

- 5804 equipment, or other school resources; or
- 5805 (C) the activity is supported or subsidized, more than inconsequentially, by public
- 5806 funds, including the public school's activity funds or Minimum School
- 5807 Program dollars.
- 5808 (ii) "School-sponsored activity" includes preparation for and involvement in a public
- 5809 performance, contest, athletic competition, demonstration, display, or club activity.
- 5810 (l) (i) "Status offense" means an offense that would not be an offense but for the age
- 5811 of the offender.
- 5812 (ii) "Status offense" does not mean an offense that by statute is a misdemeanor or
- 5813 felony.
- 5814 (2) This section applies to a minor enrolled in school who is alleged to have committed an
- 5815 offense on school property where the student is enrolled:
- 5816 (a) when school is in session; or
- 5817 (b) during a school-sponsored activity.
- 5818 (3) If a minor is alleged to have committed an offense on school property that is a class C
- 5819 misdemeanor, an infraction, or a status offense, the school administrator, the school
- 5820 administrator's designee, or a school resource officer may refer the minor:
- 5821 (a) to an evidence-based alternative intervention, including:
- 5822 (i) a mobile crisis outreach team;
- 5823 (ii) a youth services center, as defined in Section 80-5-102;
- 5824 (iii) a youth court or comparable restorative justice program;
- 5825 (iv) an evidence-based alternative intervention created and developed by the school
- 5826 or school district;
- 5827 (v) an evidence-based alternative intervention that is jointly created and developed by
- 5828 a local education agency, the state board, the juvenile court, local counties and
- 5829 municipalities, the Department of Health and Human Services; or
- 5830 (vi) a tobacco cessation or education program if the offense is a violation of Section
- 5831 76-10-105; or
- 5832 (b) for prevention and early intervention youth services, as described in Section 80-5-201,
- 5833 by the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth
- 5834 Services if the minor refuses to participate in an evidence-based alternative
- 5835 intervention described in Subsection (3)(a).
- 5836 (4) Except as provided in Subsection (5), if a minor is alleged to have committed an offense
- 5837 on school property that is a class C misdemeanor, an infraction, or a status offense, a

- 5838 school administrator, the school administrator's designee, or a school resource officer
5839 may refer a minor to a law enforcement officer or agency or a court only if:
- 5840 (a) the minor allegedly committed the same offense on school property on two previous
5841 occasions; and
- 5842 (b) the minor was referred to an evidence-based alternative intervention, or to prevention
5843 or early intervention youth services, as described in Subsection (3) for both of the
5844 two previous offenses.
- 5845 (5) If a minor is alleged to have committed a traffic offense that is an infraction, a school
5846 administrator, the school administrator's designee, or a school resource officer may refer
5847 the minor to a law enforcement officer or agency, a prosecuting attorney, or a court for
5848 the traffic offense.
- 5849 (6) Notwithstanding Subsection (4), a school resource officer may:
- 5850 (a) investigate possible criminal offenses and conduct, including conducting probable
5851 cause searches;
- 5852 (b) consult with school administration about the conduct of a minor enrolled in a school;
- 5853 (c) transport a minor enrolled in a school to a location if the location is permitted by law;
- 5854 (d) take temporary custody of a minor in accordance with Section 80-6-201; or
- 5855 (e) protect the safety of students and the school community, including the use of
5856 reasonable and necessary physical force when appropriate based on the totality of the
5857 circumstances.
- 5858 (7) (a) If a minor is referred to a court or a law enforcement officer or agency under
5859 Subsection (4), the school or the school district shall appoint a school representative
5860 to continue to engage with the minor and the minor's family through the court process.
- 5861 (b) A school representative appointed under Subsection (7)(a) may not be a school
5862 resource officer.
- 5863 (c) A school district or school shall include the following in the school district's or
5864 school's referral to the court or the law enforcement officer or agency:
- 5865 (i) attendance records for the minor;
- 5866 (ii) a report of evidence-based alternative interventions used by the school before the
5867 referral, including outcomes;
- 5868 (iii) the name and contact information of the school representative assigned to
5869 actively participate in the court process with the minor and the minor's family;
- 5870 (iv) if the minor was referred to prevention or early intervention youth services under
5871 Subsection (3)(b), a report from the [Division of Juvenile Justice Services]

- 5872 Division of Juvenile Justice and Youth Services that demonstrates the minor's
5873 failure to complete or participate in prevention and early intervention youth
5874 services under Subsection (3)(b); and
5875 (v) any other information that the school district or school considers relevant.
- 5876 (d) A minor referred to a court under Subsection (4) may not be ordered to or placed in
5877 secure detention, including for a contempt charge or violation of a valid court order
5878 under Section 78A-6-353, when the underlying offense is a status offense or
5879 infraction.
- 5880 (e) If a minor is referred to a court under Subsection (4), the court may use, when
5881 available, the resources of the [~~Division of Juvenile Justice Services~~] Division of
5882 Juvenile Justice and Youth Services or the [~~Division of Substance Abuse and Mental~~
5883 ~~Health~~] Office of Substance Use and Mental Health to address the minor.
- 5884 (8) If a minor is alleged to have committed an offense on school property that is a class B
5885 misdemeanor or a class A misdemeanor, the school administrator, the school
5886 administrator's designee, or a school resource officer may refer the minor directly to a
5887 court or to the evidence-based alternative interventions in Subsection (3)(a).
- 5888 Section 75. Section **53G-8-213** is amended to read:
- 5889 **53G-8-213 (Effective 05/01/24). Reintegration plan for student alleged to have**
5890 **committed violent felony or weapon offense.**
- 5891 (1) As used in this section:
- 5892 (a) "Multidisciplinary team" means the local education agency, the juvenile court, the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services,
5893 a school resource officer if applicable, and any other relevant party that should be
5894 involved in a reintegration plan.
- 5895 (b) "Violent felony" means the same as that term is defined in Section 76-3-203.5.
- 5896 (2) If a school district receives a notification from the juvenile court or a law enforcement
5897 agency that a student was arrested for, charged with, or adjudicated in the juvenile court
5898 for a violent felony or an offense in violation of Title 76, Chapter 10, Part 5, Weapons,
5899 the school shall develop a reintegration plan for the student with a multidisciplinary
5900 team, the student, and the student's parent or guardian, within five days after the day on
5901 which the school receives a notification.
- 5902 (3) The school may deny admission to the student until the school completes the
5903 reintegration plan under Subsection (2).
- 5904 (4) The reintegration plan under Subsection (2) shall address:
- 5905

- 5906 (a) a behavioral intervention for the student;
- 5907 (b) a short-term mental health or counseling service for the student; and
- 5908 (c) an academic intervention for the student.
- 5909 Section 76. Section **53G-10-406** is amended to read:
- 5910 **53G-10-406 (Effective 05/01/24). Underage Drinking and Substance Abuse**
- 5911 **Prevention Program -- State board rules.**
- 5912 (1) As used in this section:
- 5913 (a) "Advisory council" means the Underage Drinking and Substance Abuse Prevention
- 5914 Program Advisory Council created in this section.
- 5915 (b) "Program" means the Underage Drinking and Substance Abuse Prevention Program
- 5916 created in this section.
- 5917 (c) "School-based prevention program" means an evidence-based program that:
- 5918 (i) is aimed at preventing underage consumption of alcohol and underage use of
- 5919 electronic cigarette products;
- 5920 (ii) is delivered by methods that engage students in storytelling and visualization;
- 5921 (iii) addresses the behavioral risk factors associated with underage drinking and use
- 5922 of electronic cigarette products; and
- 5923 (iv) provides practical tools to address the dangers of underage drinking and use of
- 5924 electronic cigarette products.
- 5925 (2) There is created the Underage Drinking and Substance Abuse Prevention Program that
- 5926 consists of:
- 5927 (a) a school-based prevention program for students in grade 4 or 5;
- 5928 (b) a school-based prevention program for students in grade 7 or 8; and
- 5929 (c) a school-based prevention program for students in grade 9 or 10 that increases
- 5930 awareness of the dangers of driving under the influence of alcohol.
- 5931 (3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each
- 5932 school year to each student in grade 7 or 8 and grade 9 or 10.
- 5933 (b) In addition to Subsection (3)(a), beginning with the 2020-21 school year, an LEA
- 5934 shall offer the program each school year to each student in grade 4 or 5.
- 5935 (c) An LEA shall select from the providers qualified by the state board under Subsection
- 5936 (6) to offer the program.
- 5937 (4) The state board shall administer the program with input from the advisory council.
- 5938 (5) There is created the Underage Drinking and Substance Abuse Prevention Program
- 5939 Advisory Council comprised of the following members:

- 5940 (a) the executive director of the Department of Alcoholic Beverage Services or the
5941 executive director's designee;
- 5942 (b) the executive director of the Department of Health and Human Services or the
5943 executive director's designee;
- 5944 (c) the director of the [~~Division of Substance Abuse and Mental Health~~] Office of
5945 Substance Use and Mental Health or the director's designee;
- 5946 (d) the director of the Division of Child and Family Services or the director's designee;
- 5947 (e) the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice
5948 and Youth Services or the director's designee;
- 5949 (f) the state superintendent or the state superintendent's designee; and
- 5950 (g) two members of the state board, appointed by the chair of the state board.
- 5951 (6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state
5952 board shall qualify one or more providers to provide the program to an LEA.
- 5953 (b) In selecting a provider described in Subsection (6)(a), the state board shall consider:
- 5954 (i) whether the provider's program complies with the requirements described in this
5955 section;
- 5956 (ii) the extent to which the provider's prevention program aligns with core standards
5957 for Utah public schools; and
- 5958 (iii) the provider's experience in providing a program that is effective.
- 5959 (7) (a) The state board shall use money from the Underage Drinking and Substance
5960 Abuse Prevention Program Restricted Account described in Section 53F-9-304 for
5961 the program.
- 5962 (b) The state board may use money from the Underage Drinking Prevention Program
5963 Restricted Account to fund up to .5 of a full-time equivalent position to administer
5964 the program.
- 5965 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5966 state board shall make rules that:
- 5967 (a) beginning with the 2018-19 school year, require an LEA to offer the Underage
5968 Drinking and Substance Abuse Prevention Program each school year to each student
5969 in grade 7 or 8 and grade 9 or 10;
- 5970 (b) beginning with the 2020-21 school year, require an LEA to offer the Underage
5971 Drinking and Substance Abuse Prevention Program each school year to each student
5972 in grade 4 or 5; and
- 5973 (c) establish criteria for the state board to use in selecting a provider described in

5974 Subsection (6).

5975 Section 77. Section **58-17b-309.7** is amended to read:

5976 **58-17b-309.7 (Effective 05/01/24). Opioid treatment program.**

5977 (1) As used in this section:

5978 (a) "Covered provider" means an individual who is licensed to engage in:

5979 (i) the practice of advanced practice registered nursing as defined in Section

5980 58-31b-102;

5981 (ii) the practice of registered nursing as defined in Section 58-31b-102; or

5982 (iii) practice as a physician assistant as defined in Section 58-70a-102.

5983 (b) "Opioid treatment program" means a program or practitioner that is:

5984 (i) engaged in dispensing an opiate medication assisted treatment for opioid use
5985 disorder;

5986 (ii) registered under 21 U.S.C. Sec. 823(g)(1);

5987 (iii) licensed by the ~~[Office of Licensing]~~ Division of Licensing and Background
5988 Checks within the Department of Health and Human Services created in Section
5989 26B-2-103; and

5990 (iv) certified by the federal Substance Abuse and Mental Health Services
5991 Administration in accordance with 42 C.F.R. 8.11.

5992 (2) A covered provider may dispense opiate medication assisted treatment at an opioid
5993 treatment program if the covered provider:

5994 (a) is operating under the direction of a pharmacist;

5995 (b) dispenses the opiate medication assisted treatment under the direction of a
5996 pharmacist; and

5997 (c) acts in accordance with division rule made under Subsection (3).

5998 (3) The division shall, in consultation with practitioners who work in an opioid treatment
5999 program, make rules in accordance with Title 63G, Chapter 3, Utah Administrative
6000 Rulemaking Act, to establish guidelines under which a covered provider may dispense
6001 opiate medication assisted treatment to a patient in an opioid treatment program under
6002 this section.

6003 Section 78. Section **58-17b-620** is amended to read:

6004 **58-17b-620 (Effective 05/01/24). Prescriptions issued within the public health**
6005 **system.**

6006 (1) As used in this section:

6007 (a) "Department of Health and Human Services" means the Department of Health and

- 6008 Human Services created in Section 26B-1-201.
- 6009 (b) "Health department" means either the Department of Health and Human Services or
6010 a local health department.
- 6011 (c) "Local health departments" mean the local health departments created in Title 26A,
6012 Chapter 1, Local Health Departments.
- 6013 (2) When it is necessary to treat a reportable disease or non-emergency condition that has a
6014 direct impact on public health, a health department may implement the prescription
6015 procedure described in Subsection (3) for a prescription drug that is not a controlled
6016 substance for use in:
- 6017 (a) a clinic; or
- 6018 (b) a remote or temporary off-site location, including a triage facility established in the
6019 community, that provides:
- 6020 (i) treatment for sexually transmitted infections;
- 6021 (ii) fluoride treatment;
- 6022 (iii) travel immunization;
- 6023 (iv) preventative treatment for an individual with latent tuberculosis infection;
- 6024 (v) preventative treatment for an individual at risk for an infectious disease that has a
6025 direct impact on public health when the treatment is indicated to prevent the
6026 spread of disease or to mitigate the seriousness of infection in the exposed
6027 individual; or
- 6028 (vi) other treatment as defined by the Department of Health and Human Services by
6029 rule made in accordance with Title 63G, Chapter 3, Utah Administrative
6030 Rulemaking Act.
- 6031 (3) In a circumstance described in Subsection (2), an individual with prescriptive authority
6032 may write a prescription for each contact, as defined in Section 26B-7-201, of a patient
6033 of the individual with prescriptive authority without a face-to-face exam, if:
- 6034 (a) the individual with prescriptive authority is treating the patient for a reportable
6035 disease or non-emergency condition having a direct impact on public health; and
- 6036 (b) the contact's condition is the same as the patient of the individual with prescriptive
6037 authority.
- 6038 (4) The following prescription procedure shall be carried out in accordance with the
6039 requirements of Subsection (5) and may be used only in the circumstances described
6040 under Subsections (2) and (3):
- 6041 (a) a physician writes and signs a prescription for a prescription drug, other than a

- 6042 controlled substance, without the name and address of the patient and without the
6043 date the prescription is provided to the patient; and
- 6044 (b) the physician authorizes a registered nurse employed by the health department to
6045 complete the prescription written under this Subsection (4) by inserting the patient's
6046 name and address, and the date the prescription is provided to the patient, in
6047 accordance with the physician's standing written orders and a written health
6048 department protocol approved by the ~~[physician and the medical director]~~ public
6049 health department physician medical director or the physician medical director of the
6050 state Department of Health and Human Services licensed under Chapter 67, Utah
6051 Medical Practices Act, or Chapter 68, Utah Osteopathic Medical Practice Act.
- 6052 (5) A physician assumes responsibility for all prescriptions issued under this section in the
6053 physician's name.
- 6054 (6) (a) All prescription forms to be used by a physician and health department in
6055 accordance with this section shall be serially numbered according to a numbering
6056 system assigned to that health department.
- 6057 (b) All prescriptions issued shall contain all information required under this chapter and
6058 rules adopted under this chapter.
- 6059 (7) Notwithstanding Sections 58-17b-302 and 58-17b-309, a nurse who is employed by a
6060 health department and licensed under Chapter 31b, Nurse Practice Act, may dispense a
6061 drug to treat a sexually transmitted infection if the drug is:
- 6062 (a) a prepackaged drug as defined in Section 58-17b-802;
- 6063 (b) dispensed under a prescription authorized by this section;
- 6064 (c) provided at a location that is described in Subsection (2)(a) or (b) and operated by the
6065 health department;
- 6066 (d) provided in accordance with a dispensing standard that is issued by a physician who
6067 is employed by the health department; and
- 6068 (e) if applicable, in accordance with requirements established by the division in
6069 collaboration with the board under Subsection (8).
- 6070 (8) The division may make rules in collaboration with the board and in accordance with
6071 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish specific
6072 requirements regarding the dispensing of a drug under Subsection (7).
- 6073 Section 79. Section **63B-3-102** is amended to read:
- 6074 **63B-3-102 (Effective 05/01/24). Maximum amount -- Projects authorized.**
- 6075 (1) The total amount of bonds issued under this part may not exceed \$64,600,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

| CAPITAL IMPROVEMENTS | | | |
|----------------------------------|--|---------------|--|
| 1 | Alterations, Repairs, and Improvements | \$5,000,000 | |
| TOTAL IMPROVEMENTS | | | \$5,000,000 |
| CAPITAL AND ECONOMIC DEVELOPMENT | | | |
| PRIORITY PROJECT | PROJECT DESCRIPTION | AMOUNT FUNDED | ESTIMATED OPERATIONS AND MAINTENANCE COSTS |
| 1 | University of Utah Marriott Library Phase III (Final) | \$13,811,500 | \$881,600 |
| 2 | Bridgerland Applied Technology Center Utah State University Space | \$2,400,000 | \$0 |
| 3 | Weber State University - Heat Plant | \$2,332,100 | \$9,600 |
| 4 | Department of <u>Health and Human Services</u> - [Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services] <u>Division of Juvenile Justice and Youth Services</u> | \$4,180,000 | \$400,000 |

| | | | | |
|------|--|---|--------------|-----------|
| 6096 | 5 | Snow College - Administrative Services/ Student Center | \$3,885,100 | \$224,500 |
| 6097 | 6 | Ogden Weber Applied Technology Center - Metal Trades Building Design and Equipment Purchase | \$750,000 | \$0 |
| 6098 | 7 | Department of Corrections B-Block Remodel | \$1,237,100 | \$72,000 |
| 6099 | 8 | Utah State University - Old Main Phase III Design | \$550,000 | \$0 |
| 6100 | 9 | Department of Corrections - 144 bed Uintah Expansion | \$6,700,000 | \$168,800 |
| 6101 | 10 | Southern Utah University Administrative Services/Student Center | \$5,630,400 | \$314,200 |
| 6102 | 11 | Anasazi Museum | \$760,200 | \$8,500 |
| 6103 | 12 | Hill Air Force Base - Easements Purchase | \$9,500,000 | \$0 |
| 6104 | 13 | Signetics Building Remodel | \$2,000,000 | \$0 |
| 6105 | 14 | Antelope Island Visitors Center | \$750,000 | \$30,000 |
| 6106 | 15 | State Fair Park - Master Study | \$150,000 | \$0 |
| 6107 | 16 | Utah National Guard - Draper Land | \$380,800 | \$0 |
| 6108 | 17 | Davis Applied Technology Center - Design | \$325,000 | \$0 |
| 6109 | 18 | Palisade State Park - Land and Park Development | \$800,000 | \$0 |
| 6110 | 19 | Department of <u>Health and</u> Human Services - Cedar City Land | \$80,000 | \$0 |
| 6111 | 20 | Department of <u>Health and</u> Human Services - Clearfield Land | \$163,400 | \$0 |
| 6112 | 21 | Electronic technology, equipment, and hardware | \$2,500,000 | \$0 |
| 6113 | TOTAL CAPITAL AND ECONOMIC DEVELOPMENT | | \$58,885,600 | |
| 6114 | TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT | | \$63,885,600 | |

- 6115 (d) For purposes of this section, operations and maintenance costs:
6116 (i) are estimates only;
6117 (ii) may include any operations and maintenance costs already funded in existing
6118 agency budgets; and
6119 (iii) are not commitments by this Legislature or future Legislatures to fund those
6120 operations and maintenance costs.
- 6121 (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not
6122 constitute a limitation on the amount that may be expended for any project.
6123 (b) The board may revise these estimates and redistribute the amount estimated for a
6124 project among the projects authorized.
6125 (c) The commission, by resolution and in consultation with the board, may delete one or
6126 more projects from this list if the inclusion of that project or those projects in the list
6127 could be construed to violate state law or federal law or regulation.
- 6128 (4) (a) The division may enter into agreements related to these projects before the receipt
6129 of proceeds of bonds issued under this chapter.
6130 (b) The division shall make those expenditures from unexpended and unencumbered
6131 building funds already appropriated to the Capital Projects Fund.
6132 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
6133 of bonds issued under this chapter.
6134 (d) The commission may, by resolution, make any statement of intent relating to that
6135 reimbursement that is necessary or desirable to comply with federal tax law.
- 6136 (5) (a) For those projects for which only partial funding is provided in Subsection (2), it
6137 is the intent of the Legislature that the balance necessary to complete the projects be
6138 addressed by future Legislatures, either through appropriations or through the
6139 issuance or sale of bonds.
6140 (b) For those phased projects, the division may enter into contracts for amounts not to
6141 exceed the anticipated full project funding but may not allow work to be performed
6142 on those contracts in excess of the funding already authorized by the Legislature.
6143 (c) Those contracts shall contain a provision for termination of the contract for the
6144 convenience of the state.
6145 (d) It is also the intent of the Legislature that this authorization to the division does not
6146 bind future Legislatures to fund projects initiated from this authorization.
- 6147 Section 80. Section **63B-3-301** is amended to read:
6148 **63B-3-301 (Effective 05/01/24). Legislative intent -- Additional projects.**

- 6149 (1) It is the intent of the Legislature that, for any lease purchase agreement that the
6150 Legislature may authorize the Division of Facilities Construction and Management to
6151 enter into during its 1994 Annual General Session, the State Building Ownership
6152 Authority, at the reasonable rates and amounts it may determine, and with technical
6153 assistance from the state treasurer, the director of the Division of Finance, and the
6154 executive director of the Governor's Office of Planning and Budget, may seek out the
6155 most cost effective and prudent lease purchase plans available to the state and may,
6156 pursuant to Chapter 1, Part 3, State Building Ownership Authority Act, certificate out
6157 interests in, or obligations of the authority pertaining to:
- 6158 (a) the lease purchase obligation; or
6159 (b) lease rental payments under the lease purchase obligation.
- 6160 (2) It is the intent of the Legislature that the Department of Transportation dispose of
6161 surplus real properties and use the proceeds from those properties to acquire or construct
6162 through the Division of Facilities Construction and Management a new District Two
6163 Complex.
- 6164 (3) It is the intent of the Legislature that the Division of Facilities Construction and
6165 Management allocate funds from the Capital Improvement appropriation and donations
6166 to cover costs associated with the upgrade of the Governor's Residence that go beyond
6167 the restoration costs which can be covered by insurance proceeds.
- 6168 (4) (a) It is the intent of the Legislature to authorize the State Building Ownership
6169 Authority under authority of Chapter 1, Part 3, State Building Ownership Authority
6170 Act, to issue or execute obligations or enter into or arrange for a lease purchase
6171 agreement in which participation interests may be created, to provide up to
6172 \$10,600,000 for the construction of a Natural Resources Building in Salt Lake City,
6173 together with additional amounts necessary to:
- 6174 (i) pay costs of issuance;
6175 (ii) pay capitalized interest; and
6176 (iii) fund any debt service reserve requirements.
- 6177 (b) It is the intent of the Legislature that the authority seek out the most cost effective
6178 and prudent lease purchase plan available with technical assistance from the state
6179 treasurer, the director of the Division of Finance, and the executive director of the
6180 Governor's Office of Planning and Budget.
- 6181 (c) It is the intent of the Legislature that the operating budget for the Department of
6182 Natural Resources not be increased to fund these lease payments.

- 6183 (5) (a) It is the intent of the Legislature to authorize the State Building Ownership
6184 Authority under authority of Chapter 1, Part 3, State Building Ownership Authority
6185 Act, to issue or execute obligations or enter into or arrange for a lease purchase
6186 agreement in which participation interests may be created, to provide up to
6187 \$8,300,000 for the acquisition of the office buildings currently occupied by the
6188 Department of Environmental Quality and approximately 19 acres of additional
6189 vacant land at the Airport East Business Park in Salt Lake City, together with
6190 additional amounts necessary to:
- 6191 (i) pay costs of issuance;
 - 6192 (ii) pay capitalized interest; and
 - 6193 (iii) fund any debt service reserve requirements.
- 6194 (b) It is the intent of the Legislature that the authority seek out the most cost effective
6195 and prudent lease purchase plan available with technical assistance from the state
6196 treasurer, the director of the Division of Finance, and the executive director of the
6197 Governor's Office of Planning and Budget.
- 6198 (6) (a) It is the intent of the Legislature to authorize the State Building Ownership
6199 Authority under authority of Chapter 1, Part 3, State Building Ownership Authority
6200 Act, to issue or execute obligations or enter into or arrange for a lease purchase
6201 agreement in which participation interests may be created, to provide up to
6202 \$9,000,000 for the acquisition or construction of up to two field offices for the
6203 Department of Health and Human Services in the southwestern portion of Salt Lake
6204 County, together with additional amounts necessary to:
- 6205 (i) pay costs of issuance;
 - 6206 (ii) pay capitalized interest; and
 - 6207 (iii) fund any debt service reserve requirements.
- 6208 (b) It is the intent of the Legislature that the authority seek out the most cost effective
6209 and prudent lease purchase plan available with technical assistance from the state
6210 treasurer, the director of the Division of Finance, and the executive director of the
6211 Governor's Office of Planning and Budget.
- 6212 (7) (a) It is the intent of the Legislature to authorize the State Building Ownership
6213 Authority under authority of Chapter 1, Part 3, State Building Ownership Authority
6214 Act, to issue or execute obligations or enter into or arrange for lease purchase
6215 agreements in which participation interests may be created, to provide up to
6216 \$5,000,000 for the acquisition or construction of up to 13 stores for the Department

- 6217 of Alcoholic Beverage Services, together with additional amounts necessary to:
- 6218 (i) pay costs of issuance;
- 6219 (ii) pay capitalized interest; and
- 6220 (iii) fund any debt service reserve requirements.
- 6221 (b) It is the intent of the Legislature that the authority seek out the most cost effective
- 6222 and prudent lease purchase plan available with technical assistance from the state
- 6223 treasurer, the director of the Division of Finance, and the executive director of the
- 6224 Governor's Office of Planning and Budget.
- 6225 (c) It is the intent of the Legislature that the operating budget for the Department of
- 6226 Alcoholic Beverage Services not be increased to fund these lease payments.
- 6227 (8) (a) It is the intent of the Legislature to authorize the State Building Ownership
- 6228 Authority under authority of Chapter 1, Part 3, State Building Ownership Authority
- 6229 Act, to issue or execute obligations or enter into or arrange for a lease purchase
- 6230 agreement in which participation interests may be created, to provide up to
- 6231 \$6,800,000 for the construction of a Prerelease and Parole Center for the Department
- 6232 of Corrections, containing a minimum of 300 beds, together with additional amounts
- 6233 necessary to:
- 6234 (i) pay costs of issuance;
- 6235 (ii) pay capitalized interest; and
- 6236 (iii) fund any debt service reserve requirements.
- 6237 (b) It is the intent of the Legislature that the authority seek out the most cost effective
- 6238 and prudent lease purchase plan available with technical assistance from the state
- 6239 treasurer, the director of the Division of Finance, and the executive director of the
- 6240 Governor's Office of Planning and Budget.
- 6241 (9) If S.B. 275, 1994 General Session, which authorizes funding for a Courts Complex in
- 6242 Salt Lake City, becomes law, it is the intent of the Legislature that:
- 6243 (a) the Legislative Management Committee, the Interim Appropriation Subcommittees
- 6244 for General Government and Capital Facilities and Executive Offices, Courts, and
- 6245 Corrections, the Office of the Legislative Fiscal Analyst, the Governor's Office of
- 6246 Planning and Budget, and the Division of Facilities Construction and Management
- 6247 participate in a review of the proposed facility design for the Courts Complex no later
- 6248 than December 1994; and
- 6249 (b) although this review will not affect the funding authorization issued by the 1994
- 6250 Legislature, it is expected that Division of Facilities Construction and Management

- 6251 will give proper attention to concerns raised in these reviews and make appropriate
6252 design changes pursuant to the review.
- 6253 (10) It is the intent of the Legislature that:
- 6254 (a) the Division of Facilities Construction and Management, in cooperation with the [
6255 ~~Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice~~
6256 ~~Services]~~ Division of Juvenile Justice and Youth Services, formerly known as the
6257 Division of Youth Corrections and then the Division of Juvenile Justice Services,
6258 develop a flexible use prototype facility for [~~the Division of Youth Corrections~~
6259 ~~renamed in 2003 to the Division of Juvenile Justice Services]~~ the Division of Juvenile
6260 Justice and Youth Services;
- 6261 (b) the development process use existing prototype proposals unless it can be
6262 quantifiably demonstrated that the proposals cannot be used;
- 6263 (c) the facility is designed so that with minor modifications, it can accommodate
6264 detention, observation and assessment, transition, and secure programs as needed at
6265 specific geographical locations;
- 6266 (d) (i) funding as provided in the fiscal year 1995 bond authorization for the Division
6267 of Youth Corrections [~~renamed in 2003 to the Division of Juvenile Justice Services]~~
6268 , now known as the Division of Juvenile Justice and Youth Services, is used to
6269 design and construct one facility and design the other;
- 6270 (ii) the [~~Division of Youth Corrections renamed in 2003 to the Division of Juvenile~~
6271 ~~Justice Services]~~ Division of Juvenile Justice and Youth Services shall:
- 6272 (A) determine the location for the facility for which design and construction are
6273 fully funded; and
- 6274 (B) in conjunction with the Division of Facilities Construction and Management,
6275 determine the best methodology for design and construction of the fully funded
6276 facility;
- 6277 (e) the Division of Facilities Construction and Management submit the prototype as soon
6278 as possible to the Infrastructure and General Government Appropriations
6279 Subcommittee and Executive Offices, Criminal Justice, and Legislature
6280 Appropriation Subcommittee for review;
- 6281 (f) the Division of Facilities Construction and Management issue a Request for Proposal
6282 for one of the facilities, with that facility designed and constructed entirely by the
6283 winning firm;
- 6284 (g) the other facility be designed and constructed under the existing Division of

- 6285 Facilities Construction and Management process;
- 6286 (h) [~~that~~]both facilities follow the program needs and specifications as identified by
- 6287 Division of Facilities Construction and Management and the [~~Division of Youth~~
- 6288 ~~Corrections renamed in 2003 to the Division of Juvenile Justice Services~~] Division of
- 6289 Juvenile Justice and Youth Services in the prototype; and
- 6290 (i) the fully funded facility should be ready for occupancy by September 1, 1995.
- 6291 (11) It is the intent of the Legislature that the fiscal year 1995 funding for the State Fair
- 6292 Park Master Study be used by the Division of Facilities Construction and Management
- 6293 to develop a master plan for the State Fair Park that:
- 6294 (a) identifies capital facilities needs, capital improvement needs, building configuration,
- 6295 and other long term needs and uses of the State Fair Park and its buildings; and
- 6296 (b) establishes priorities for development, estimated costs, and projected timetables.
- 6297 (12) It is the intent of the Legislature that:
- 6298 (a) the Division of Facilities Construction and Management, in cooperation with the
- 6299 Division of State Parks, formerly known as the Division of Parks and Recreation, and
- 6300 surrounding counties, develop a master plan and general program for the phased
- 6301 development of Antelope Island;
- 6302 (b) the master plan:
- 6303 (i) establish priorities for development;
- 6304 (ii) include estimated costs and projected time tables; and
- 6305 (iii) include recommendations for funding methods and the allocation of
- 6306 responsibilities between the parties; and
- 6307 (c) the results of the effort be reported to the Natural Resources, Agriculture, and
- 6308 Environmental Quality Appropriations Subcommittee and Infrastructure and General
- 6309 Government Appropriations Subcommittee.
- 6310 (13) It is the intent of the Legislature to authorize the University of Utah to use:
- 6311 (a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under the
- 6312 supervision of the director of the Division of Facilities Construction and Management
- 6313 unless supervisory authority is delegated by the director; and
- 6314 (b) donated and other nonappropriated funds to plan, design, and construct the Biology
- 6315 Research Building under the supervision of the director of the Division of Facilities
- 6316 Construction and Management unless supervisory authority is delegated by the
- 6317 director.
- 6318 (14) It is the intent of the Legislature to authorize Utah State University to use:

- 6319 (a) federal and other funds to plan, design, and construct the Bee Lab under the
6320 supervision of the director of the Division of Facilities Construction and Management
6321 unless supervisory authority is delegated by the director;
- 6322 (b) donated and other nonappropriated funds to plan, design, and construct an Athletic
6323 Facility addition and renovation under the supervision of the director of the Division
6324 of Facilities Construction and Management unless supervisory authority is delegated
6325 by the director;
- 6326 (c) donated and other nonappropriated funds to plan, design, and construct a renovation
6327 to the Nutrition and Food Science Building under the supervision of the director of
6328 the Division of Facilities Construction and Management unless supervisory authority
6329 is delegated by the director; and
- 6330 (d) federal and private funds to plan, design, and construct the Millville Research
6331 Facility under the supervision of the director of the Division of Facilities
6332 Construction and Management unless supervisory authority is delegated by the
6333 director.
- 6334 (15) It is the intent of the Legislature to authorize Salt Lake Community College to use:
- 6335 (a) institutional funds to plan, design, and construct a remodel to the Auto Trades Office
6336 and Learning Center under the supervision of the director of the Division of Facilities
6337 Construction and Management unless supervisory authority is delegated by the
6338 director;
- 6339 (b) institutional funds to plan, design, and construct the relocation and expansion of a
6340 temporary maintenance compound under the supervision of the director of the
6341 Division of Facilities Construction and Management unless supervisory authority is
6342 delegated by the director; and
- 6343 (c) institutional funds to plan, design, and construct the Alder Amphitheater under the
6344 supervision of the director of the Division of Facilities Construction and Management
6345 unless supervisory authority is delegated by the director.
- 6346 (16) It is the intent of the Legislature to authorize Southern Utah University to use:
- 6347 (a) federal funds to plan, design, and construct a Community Services Building under
6348 the supervision of the director of the Division of Facilities Construction and
6349 Management unless supervisory authority is delegated by the director; and
- 6350 (b) donated and other nonappropriated funds to plan, design, and construct a stadium
6351 expansion under the supervision of the director of the Division of Facilities
6352 Construction and Management unless supervisory authority is delegated by the

6353 director.

6354 (17) It is the intent of the Legislature to authorize the Department of Corrections to use
6355 donated funds to plan, design, and construct a Prison Chapel at the Central Utah
6356 Correctional Facility in Gunnison under the supervision of the director of the Division of
6357 Facilities Construction and Management unless supervisory authority is delegated by the
6358 director.

6359 (18) If the Utah National Guard does not relocate in the Signetics Building, it is the intent
6360 of the Legislature to authorize the Guard to use federal funds and funds from Provo City
6361 to plan and design an Armory in Provo, Utah, under the supervision of the director of the
6362 Division of Facilities Construction and Management unless supervisory authority is
6363 delegated by the director.

6364 (19) It is the intent of the Legislature that the Utah Department of Transportation use
6365 \$250,000 of the fiscal year 1995 highway appropriation to fund an environmental study
6366 in Ogden, Utah of the 2600 North Corridor between Washington Boulevard and I-15.

6367 (20) It is the intent of the Legislature that the Ogden-Weber Applied Technology Center
6368 use the money appropriated for fiscal year 1995 to design the Metal Trades Building and
6369 purchase equipment for use in that building that could be used in metal trades or other
6370 programs in other Applied Technology Centers.

6371 (21) It is the intent of the Legislature that the Bridgerland Applied Technology Center and
6372 the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995
6373 be considered as the highest priority projects for construction funding in fiscal year 1996.

6374 (22) It is the intent of the Legislature that:

6375 (a) the Division of Facilities Construction and Management complete physical space
6376 utilization standards by June 30, 1995, for the use of technology education activities;

6377 (b) these standards are to be developed with and approved by the State Board of
6378 Education, the Board of Regents, and the Division of Facilities Construction and
6379 Management;

6380 (c) these physical standards be used as the basis for:

6381 (i) determining utilization of any technology space based on number of stations
6382 capable and occupied for any given hour of operation; and

6383 (ii) requests for any new space or remodeling;

6384 (d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the
6385 Ogden-Weber Applied Technology Center are exempt from this process; and

6386 (e) the design of the Davis Applied Technology Center take into account the utilization

formulas established by the Division of Facilities Construction and Management.

(23) It is the intent of the Legislature that Utah Valley State College may use the money from the bond allocated to the remodel of the Signetics building to relocate its technical education programs at other designated sites or facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(24) It is the intent of the Legislature that the money provided for the fiscal year 1995 project for the Bridgerland Applied Technology Center be used to design and construct the space associated with Utah State University and design the technology center portion of the project.

(25) It is the intent of the Legislature that the governor provide periodic reports on the expenditure of the funds provided for electronic technology, equipment, and hardware to the Infrastructure and General Government Appropriations Subcommittee, and the Legislative Management Committee.

Section 81. Section **63B-4-102** is amended to read:

63B-4-102 (Effective 05/01/24). Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed \$45,300,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

| CAPITAL IMPROVEMENTS | | |
|----------------------------------|--|-------------|
| | Alterations, Repairs, and Improvements | \$7,200,000 |
| TOTAL IMPROVEMENTS | | \$7,200,000 |
| CAPITAL AND ECONOMIC DEVELOPMENT | | |

| | | | | |
|------|--|---|------------------|---|
| 6419 | | PROJECT DESCRIPTION | AMOUNT FUNDED | ESTIMATED OPERATIONS AND MAINTENANCE COSTS |
| 6420 | | Corrections - Uinta IVA | \$11,300,000 | \$212,800 |
| 6421 | | Utah County Youth Correctional Facility | \$6,650,000 | \$245,000 |
| 6422 | | Ogden Weber Applied Technology Center - Metal Trades | \$5,161,000 | \$176,000 |
| 6423 | | Project Reserve Fund | \$3,500,000 | None |
| 6424 | | Weber State University - Browning Center Remodel | \$3,300,000 | None |
| 6425 | | Heber Wells Building Remodel | \$2,000,000 | None |
| 6426 | | Higher Education Davis County - Land Purchase | \$1,600,000 | None |
| 6427 | | National Guard -- Provo Armory | \$1,500,000 | \$128,000 |
| 6428 | | Department of Natural Resources - Pioneer Trails Visitor Center | \$900,000 | \$65,000 |
| 6429 | | Higher Education Design Projects | \$800,000 | Varies depending upon projects selected |
| 6430 | | Salt Lake Community College - South Valley Planning | \$300,000 | None |
| 6431 | | Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services, <u>now known as</u> <u>the Division of Juvenile Justice and Youth Services</u> - Logan Land Purchase | \$120,000 | None |
| 6432 | TOTAL CAPITAL AND ECONOMIC DEVELOPMENT | | | \$37,131,000 |
| 6433 | TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT | | | \$44,331,000 |

- 6434 (d) For purposes of this section, operations and maintenance costs:
- 6435 (i) are estimates only;
- 6436 (ii) may include any operations and maintenance costs already funded in existing
- 6437 agency budgets; and

(iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

- (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.
- (b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.
- (c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.
- (4) (a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.
- (b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.
- (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.
- (d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.
- (5) (a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.
- (b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.
- (c) Those contracts shall contain a provision for termination of the contract for the convenience of the state.
- (d) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund projects initiated from this authorization.

Section 82. Section **63B-11-702** is amended to read:

63B-11-702 (Effective 05/01/24). Other capital facility authorizations and intent language.

- (1) It is the intent of the Legislature that:

- (a) Salt Lake Community College use donations and other institutional funds to plan, design, and construct a renovation of and addition to the Grand Theater under the

- 6472 direction of the director of the Division of Facilities Construction and Management
6473 unless supervisory authority has been delegated;
- 6474 (b) no state funds be used for any portion of this project; and
- 6475 (c) the college may request state funds for operations and maintenance to the extent that
6476 the college is able to demonstrate to the Board of Regents that the facility meets
6477 approved academic and training purposes under Board of Regents policy R710.
- 6478 (2) It is the intent of the Legislature that:
- 6479 (a) the University of Utah use donations, grants, and other institutional funds to plan,
6480 design, and construct a Department of Chemistry Gauss House under the direction of
6481 the director of the Division of Facilities Construction and Management unless
6482 supervisory authority has been delegated;
- 6483 (b) no state funds be used for any portion of this project; and
- 6484 (c) the university may request state funds for operations and maintenance to the extent
6485 that the university is able to demonstrate to the Board of Regents that the facility
6486 meets approved academic and training purposes under Board of Regents policy R710.
- 6487 (3) It is the intent of the Legislature that:
- 6488 (a) the University of Utah use donations and other institutional funds to plan, design, and
6489 construct an expansion of the Eccles Health Science Library and the associated
6490 parking structure under the direction of the director of the Division of Facilities
6491 Construction and Management unless supervisory authority has been delegated;
- 6492 (b) no state funds be used for any portion of this project; and
- 6493 (c) the university may request state funds for operations and maintenance to the extent
6494 that the university is able to demonstrate to the Board of Regents that the facility
6495 meets approved academic and training purposes under Board of Regents policy R710.
- 6496 (4) It is the intent of the Legislature that:
- 6497 (a) the University of Utah use donations and other institutional funds to plan, design, and
6498 construct a Phase II Addition to the Moran Eye Center under the direction of the
6499 director of the Division of Facilities Construction and Management unless
6500 supervisory authority has been delegated;
- 6501 (b) no state funds be used for any portion of this project; and
- 6502 (c) the university may not request state funds for operations and maintenance.
- 6503 (5) It is the intent of the Legislature that:
- 6504 (a) the University of Utah use donations and other institutional funds to plan, design, and
6505 construct a Children's Dance Theatre under the direction of the director of the

- 6506 Division of Facilities Construction and Management unless supervisory authority has
6507 been delegated;
- 6508 (b) no state funds be used for any portion of this project; and
6509 (c) the university may not request state funds for operations and maintenance.
- 6510 (6) It is the intent of the Legislature that:
- 6511 (a) Utah State University use donations and other institutional funds to plan, design, and
6512 construct a Teaching Pavilion at its Animal Science Farm under the direction of the
6513 director of the Division of Facilities Construction and Management unless
6514 supervisory authority has been delegated;
- 6515 (b) no state funds be used for any portion of this project; and
6516 (c) the university may request state funds for operations and maintenance to the extent
6517 that the university is able to demonstrate to the Board of Regents that the facility
6518 meets approved academic and training purposes under Board of Regents policy R710.
- 6519 (7) It is the intent of the Legislature that:
- 6520 (a) the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth
6521 Services use donations to plan, design, and construct a chapel at the Slate Canyon
6522 Youth Corrections Facility under the direction of the director of the Division of
6523 Facilities Construction and Management unless supervisory authority has been
6524 delegated;
- 6525 (b) no state funds be used for any portion of this project; and
6526 (c) the division may not request additional state funding for operations and maintenance.
- 6527 (8) It is the intent of the Legislature that the Utah National Guard use federal funds and
6528 proceeds from the sale of property to acquire a site for new facilities in Salt Lake or
6529 Davis County.
- 6530 (9) It is the intent of the Legislature that:
- 6531 (a) the Utah National Guard use donations and grants to plan, design, and construct the
6532 renovation and expansion of the Fort Douglas Military Museum under the direction
6533 of the director of the Division of Facilities Construction and Management unless
6534 supervisory authority has been delegated;
- 6535 (b) no state funds be used for any portion of this project; and
6536 (c) the National Guard may not request additional state funding for operations and
6537 maintenance.
- 6538 (10) It is the intent of the Legislature that:
- 6539 (a) the Division of Facilities Construction and Management pursue the exchange of

public safety facilities in Orem if:

(i) the land and newly constructed replacement facilities meet the needs of the Driver

License Division and the Utah Highway Patrol; and

(ii) the replacement property and facilities can be obtained at a cost that is not less

than the market value of the existing property and facilities; and

(b) the division confirms the value of the properties to be exchanged.

Section 83. Section **63M-7-208** is amended to read:

63M-7-208 (Effective 05/01/24). Juvenile justice oversight -- Delegation --

Effective dates.

(1) The State Commission on Criminal and Juvenile Justice shall:

(a) support implementation and expansion of evidence-based juvenile justice programs

and practices, including assistance regarding implementation fidelity, quality

assurance, and ongoing evaluation;

(b) examine and make recommendations on the use of third-party entities or an

intermediary organization to assist with implementation and to support the

performance-based contracting system authorized in Subsection (1)(m);

(c) oversee the development of performance measures to track juvenile justice reforms,

and ensure early and ongoing stakeholder engagement in identifying the relevant

performance measures;

(d) evaluate currently collected data elements throughout the juvenile justice system and

contract reporting requirements to streamline reporting, reduce redundancies,

eliminate inefficiencies, and ensure a focus on recidivism reduction;

(e) review averted costs from reductions in out-of-home placements for juvenile justice

youth placed with the [~~Division of Juvenile Justice Services~~] Division of Juvenile

Justice and Youth Services and the Division of Child and Family Services, and make

recommendations to prioritize the reinvestment and realignment of resources into

community-based programs for youth living at home, including the following:

(i) statewide expansion of:

(A) juvenile receiving centers, as defined in Section 80-1-102;

(B) mobile crisis outreach teams, as defined in Section [~~62A-15-102~~] 26B-5-101;

(C) youth courts; and

(D) victim-offender mediation;

(ii) statewide implementation of nonresidential diagnostic assessment;

(iii) statewide availability of evidence-based programs and practices including

- 6574 cognitive behavioral and family therapy programs for minors assessed by a
6575 validated risk and needs assessment as moderate or high risk;
- 6576 (iv) implementation and infrastructure to support the sustainability and fidelity of
6577 evidence-based juvenile justice programs, including resources for staffing,
6578 transportation, and flexible funds; and
- 6579 (v) early intervention programs such as family strengthening programs, family
6580 wraparound services, and proven truancy interventions;
- 6581 (f) assist the Administrative Office of the Courts in the development of a statewide
6582 sliding scale for the assessment of fines, fees, and restitution, based on the ability of
6583 the minor's family to pay;
- 6584 (g) analyze the alignment of resources and the roles and responsibilities of agencies,
6585 such as the operation of early intervention services, receiving centers, and diversion,
6586 and make recommendations to reallocate functions as appropriate, in accordance with
6587 Section 80-5-401;
- 6588 (h) comply with the data collection and reporting requirements under Section 80-6-104;
- 6589 (i) develop a reasonable timeline within which all programming delivered to minors in
6590 the juvenile justice system must be evidence-based or consist of practices that are
6591 rated as effective for reducing recidivism by a standardized program evaluation tool;
- 6592 (j) provide guidelines to be considered by the Administrative Office of the Courts and
6593 the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth
6594 Services in developing tools considered by the Administrative Office of the Courts
6595 and the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth
6596 Services in developing or selecting tools to be used for the evaluation of juvenile
6597 justice programs;
- 6598 (k) develop a timeline to support improvements to juvenile justice programs to achieve
6599 reductions in recidivism and review reports from relevant state agencies on progress
6600 toward reaching that timeline;
- 6601 (l) subject to Subsection (2), assist in the development of training for juvenile justice
6602 stakeholders, including educators, law enforcement officers, probation staff, judges, [
6603 ~~Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services
6604 staff, Division of Child and Family Services staff, and program providers;
- 6605 (m) subject to Subsection (3), assist in the development of a performance-based
6606 contracting system, which shall be developed by the Administrative Office of the
6607 Courts and the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and

6608 Youth Services for contracted services in the community and contracted out-of-home
6609 placement providers;

6610 (n) assist in the development of a validated detention risk assessment tool that is
6611 developed or adopted and validated by the Administrative Office of the Courts and
6612 the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth
6613 Services as provided in Section 80-5-203; and

6614 (o) annually issue and make public a report to the governor, president of the Senate,
6615 speaker of the House of Representatives, and chief justice of the Utah Supreme Court
6616 on the progress of the reforms and any additional areas in need of review.

6617 (2) Training described in Subsection (1)(l) should include instruction on evidence-based
6618 programs and principles of juvenile justice, such as risk, needs, responsivity, and
6619 fidelity, and shall be supplemented by the following topics:

6620 (a) adolescent development;

6621 (b) identifying and using local behavioral health resources;

6622 (c) cross-cultural awareness;

6623 (d) graduated responses;

6624 (e) Utah juvenile justice system data and outcomes; and

6625 (f) gangs.

6626 (3) The system described in Subsection (1)(m) shall provide incentives for:

6627 (a) the use of evidence-based juvenile justice programs and practices rated as effective
6628 by the tools selected in accordance with Subsection (1)(j);

6629 (b) the use of three-month timelines for program completion; and

6630 (c) evidence-based programs and practices for minors living at home in rural areas.

6631 (4) The State Commission on Criminal and Juvenile Justice may delegate the duties
6632 imposed under this section to a subcommittee or board established by the State
6633 Commission on Criminal and Juvenile Justice in accordance with Subsection 63M-7-204
6634 (2).

6635 Section 84. Section **63M-7-401** is amended to read:

6636 **63M-7-401 (Effective 05/01/24). Creation -- Members -- Appointment --**
6637 **Qualifications.**

6638 (1) There is created a state commission to be known as the Sentencing Commission
6639 composed of 28 members. The commission shall develop by-laws and rules in
6640 compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and elect
6641 its officers.

- 6642 (2) The commission's members shall be:
- 6643 (a) two members of the House of Representatives, appointed by the speaker of the
- 6644 House and not of the same political party;
- 6645 (b) two members of the Senate, appointed by the president of the Senate and not of the
- 6646 same political party;
- 6647 (c) the executive director of the Department of Corrections or a designee appointed by
- 6648 the executive director;
- 6649 (d) the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice
- 6650 and Youth Services or a designee appointed by the director;
- 6651 (e) the executive director of the Commission on Criminal and Juvenile Justice or a
- 6652 designee appointed by the executive director;
- 6653 (f) the chair of the Board of Pardons and Parole or a designee appointed by the chair;
- 6654 (g) the chair of the Youth Parole Authority or a designee appointed by the chair;
- 6655 (h) two trial judges and an appellate judge appointed by the chair of the Judicial Council;
- 6656 (i) two juvenile court judges designated by the chair of the Judicial Council;
- 6657 (j) an attorney in private practice who is a member of the Utah State Bar, experienced in
- 6658 criminal defense, and appointed by the Utah Bar Commission;
- 6659 (k) an attorney who is a member of the Utah State Bar, experienced in the defense of
- 6660 minors in juvenile court, and appointed by the Utah Bar Commission;
- 6661 (l) the director of Salt Lake Legal Defenders or a designee appointed by the director;
- 6662 (m) the attorney general or a designee appointed by the attorney general;
- 6663 (n) a criminal prosecutor appointed by the Statewide Association of Public Attorneys;
- 6664 (o) a juvenile court prosecutor appointed by the Statewide Association of Public
- 6665 Attorneys;
- 6666 (p) a representative of the Utah Sheriff's Association appointed by the governor;
- 6667 (q) a chief of police appointed by the governor;
- 6668 (r) a licensed professional appointed by the governor who assists in the rehabilitation of
- 6669 adult offenders;
- 6670 (s) a licensed professional appointed by the governor who assists in the rehabilitation of
- 6671 juvenile offenders;
- 6672 (t) two members from the public appointed by the governor who exhibit sensitivity to
- 6673 the concerns of victims of crime and the ethnic composition of the population;
- 6674 (u) one member from the public at large appointed by the governor; and
- 6675 (v) a representative of an organization that specializes in civil rights or civil liberties on

6676 behalf of incarcerated individuals appointed by the governor.

6677 Section 85. Section **63M-7-601** is amended to read:

6678 **63M-7-601 (Effective 05/01/24). Creation -- Members -- Chair.**

6679 (1) There is created within the governor's office the Utah Council on Victims of Crime.

6680 (2) The council is composed of 28 voting members as follows:

6681 (a) a representative of the State Commission on Criminal and Juvenile Justice appointed
6682 by the executive director;

6683 (b) a representative of the Department of Corrections appointed by the executive director;

6684 (c) a representative of the Board of Pardons and Parole appointed by the chair;

6685 (d) a representative of the Department of Public Safety appointed by the commissioner;

6686 (e) a representative of the [~~Division of Juvenile Justice Services~~] Division of Juvenile
6687 Justice and Youth Services appointed by the director;

6688 (f) a representative of the Utah Office for Victims of Crime appointed by the director;

6689 (g) a representative of the Office of the Attorney General appointed by the attorney
6690 general;

6691 (h) a representative of the United States Attorney for the district of Utah appointed by
6692 the United States Attorney;

6693 (i) a representative of Utah's Native American community appointed by the director of
6694 the Division of Indian Affairs after input from federally recognized tribes in Utah;

6695 (j) a professional or volunteer working in the area of violence against women and
6696 families appointed by the governor;

6697 (k) a representative of the Department of Health and Human Services Violence and
6698 Injury Prevention Program appointed by the program's manager;

6699 (l) the chair of each judicial district's victims' rights committee;

6700 (m) a representative of the Statewide Association of Public Attorneys appointed by that
6701 association;

6702 (n) a representative of the Utah Chiefs of Police Association appointed by the president
6703 of that association;

6704 (o) a representative of the Utah Sheriffs' Association appointed by the president of that
6705 association;

6706 (p) a representative of a Children's Justice Center appointed by the attorney general;

6707 (q) the director of the Division of Child and Family Services or that individual's
6708 designee;

6709 (r) the chair of the Utah Victim Services Commission or the chair's designee; and

6710 (s) the following members appointed by the members in Subsections (2)(a) through
 6711 (2)(r) to serve four-year terms:

6712 (i) an individual who engages in community based advocacy;

6713 (ii) a citizen representative; and

6714 (iii) a citizen representative who has been a victim of crime.

6715 (3) The council shall annually elect:

6716 (a) one member to serve as chair;

6717 (b) one member to serve as vice-chair; and

6718 (c) one member to serve as treasurer.

6719 Section 86. Section **63M-7-702** is amended to read:

6720 **63M-7-702 (Effective 05/01/24). Domestic Violence Offender Treatment Board --**
 6721 **Creation -- Membership -- Quorum -- Per diem -- Staff support -- Meetings.**

6722 (1) There is created within the commission the Domestic Violence Offender Treatment
 6723 Board consisting of the following members:

6724 (a) the executive director of the Department of Corrections, or the executive director's
 6725 designee;

6726 (b) the executive director of the Department of Health and Human Services, or the
 6727 executive director's designee;

6728 (c) one individual who represents a state program that focuses on prevention of injury
 6729 and domestic violence appointed by the executive director of the Department of
 6730 Health and Human Services;

6731 (d) the commissioner of public safety for the Department of Public Safety, or the
 6732 commissioner's designee;

6733 (e) the chair of the Utah Victim Services Commission or the chair's designee;

6734 (f) the director of the Utah Office for Victims of Crime, or the director's designee;

6735 (g) the chair of the Board of Pardons and Parole, or the chair's designee;

6736 (h) the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice
 6737 and Youth Services, or the director's designee;

6738 (i) one individual who represents the Administrative Office of the Courts appointed by
 6739 the state court administrator; and

6740 (j) ten individuals appointed by the executive director of the commission, including:

6741 (i) the following four individuals licensed under Title 58, Chapter 60, Mental Health
 6742 Professional Practice Act:

6743 (A) a clinical social worker;

- 6744 (B) a marriage and family therapist;
6745 (C) a professional counselor; and
6746 (D) a psychologist;
- 6747 (ii) one individual who represents an association of criminal defense attorneys;
6748 (iii) one criminal defense attorney who primarily represents indigent criminal
6749 defendants;
- 6750 (iv) one individual who represents an association of prosecuting attorneys;
6751 (v) one individual who represents law enforcement;
6752 (vi) one individual who represents an association of criminal justice victim
6753 advocates; and
6754 (vii) one individual who represents a nonprofit organization that provides domestic
6755 violence victim advocate services.
- 6756 (2) (a) A member may not serve on the board for more than eight consecutive years.
6757 (b) If a vacancy occurs in the membership of the board appointed under Subsection (1),
6758 the member shall be replaced in the same manner in which the original appointment
6759 was made.
- 6760 (c) A member of the board serves until the member's successor is appointed.
- 6761 (3) The members of the board shall vote on a chair and co-chair of the board to serve for
6762 two years.
- 6763 (4) (a) A majority of the board members constitutes a quorum.
6764 (b) The action of a majority of a quorum constitutes an action of the board.
- 6765 (5) A board member may not receive compensation or benefits for the member's service on
6766 the board, but may receive per diem and reimbursement for travel expenses incurred as a
6767 board member at the rates established by the Division of Finance under:
6768 (a) Sections 63A-3-106 and 63A-3-107; and
6769 (b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- 6770 (6) The commission shall provide staff support to the board.
- 6771 (7) The board shall meet at least quarterly on a date the board sets.
- 6772 Section 87. Section **63M-7-802** is amended to read:
- 6773 **63M-7-802 (Effective 05/01/24). Sex Offense Management Board -- Creation --**
6774 **Members appointment -- Qualifications -- Terms.**
- 6775 (1) There is created within the commission the Sex Offense Management Board consisting
6776 of the following members:
- 6777 (a) the executive director of the Department of Corrections, or the executive director's

- 6778 designee;
- 6779 (b) the commissioner of the Department of Public Safety, or the commissioner's
- 6780 designee;
- 6781 (c) the attorney general, or the attorney general's designee;
- 6782 (d) an officer with the adult probation and parole section of the Department of
- 6783 Corrections with experience supervising adults convicted of sex offenses, appointed
- 6784 by the executive director of the Department of Corrections;
- 6785 (e) the executive director of the Department of Health and Human Services, or the
- 6786 executive director's designee;
- 6787 (f) an individual who represents the Administrative Office of the Courts appointed by
- 6788 the state court administrator;
- 6789 (g) the director of the Utah Office for Victims of Crime, or the director's designee;
- 6790 (h) the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice
- 6791 and Youth Services, or the director's designee;
- 6792 (i) the chair of the Board of Pardons and Parole, or the chair's designee; and
- 6793 (j) nine individuals appointed by the executive director of the commission, including:
- 6794 (i) the following two individuals licensed under Title 58, Chapter 60, Mental Health
- 6795 Professional Practice Act:
- 6796 (A) an individual with experience in the treatment of adults convicted of sex
- 6797 offenses in the community;
- 6798 (B) an individual with experience in the treatment of juveniles adjudicated of sex
- 6799 offenses in the community;
- 6800 (ii) an individual who represents an association of criminal defense attorneys;
- 6801 (iii) an individual who is a criminal defense attorney experienced in indigent criminal
- 6802 defense;
- 6803 (iv) an individual who represents an association of prosecuting attorneys;
- 6804 (v) an individual who represents law enforcement;
- 6805 (vi) an individual who represents an association of criminal justice victim advocates;
- 6806 (vii) an individual who is a clinical polygraph examiner experienced in providing
- 6807 polygraph examinations to individuals convicted of sex offenses; and
- 6808 (viii) an individual who has been previously convicted of a sex offense and has
- 6809 successfully completed treatment and supervision for the offense.
- 6810 (2) (a) A member described in Subsection (1)(j) shall serve a four-year term.
- 6811 (b) If a vacancy occurs among a member described in Subsection (1)(j), the executive

- 6812 director of the commission may appoint a new individual to fill the remainder of the
6813 term.
- 6814 (c) When a term of a member described in Subsection (1)(j) expires, the executive
6815 director of the commission shall appoint a new member or reappoint the member
6816 whose term has expired to a new four-year term.
- 6817 (3) The members of the board shall vote on a chair and co-chair of the board from among
6818 the members described in Subsection (1) to serve a two-year term.
- 6819 (4) A majority of the board constitutes a quorum.
- 6820 (5) A board member may not receive compensation or benefits for the member's service on
6821 the board, but may receive per diem and reimbursement for travel expenses incurred as a
6822 board member at rates established by the Division of Finance under:
- 6823 (a) Sections 63A-3-106 and 63A-3-107; and
6824 (b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- 6825 (6) The commission shall provide staff support to the board.
- 6826 (7) The board shall meet at least six times per year on dates the board sets.
- 6827 Section 88. Section **67-5b-101** is amended to read:
- 6828 **67-5b-101 (Effective 05/01/24). Definitions.**
- 6829 As used in this part:
- 6830 (1) "Center" means a Children's Justice Center established in accordance with Section
6831 67-5b-102.
- 6832 (2) "Child abuse case" means a juvenile, civil, or criminal case involving a child abuse
6833 victim.
- 6834 (3) "Child abuse victim" means a child 17 years [~~of age~~] old or younger who is:
- 6835 (a) a victim of:
- 6836 (i) sexual abuse; or
6837 (ii) physical abuse; or
- 6838 (b) a victim or a critical witness in any criminal case, such as a child endangerment case
6839 described in Section 76-5-112.5.
- 6840 (4) "Officers and employees" means any person performing services for two or more public
6841 agencies as agreed in a memorandum of understanding in accordance with Section
6842 67-5b-104.
- 6843 (5) "Public agency" means a municipality, a county, the attorney general, the Division of
6844 Child and Family Services, the [~~Division of Juvenile Justice Services~~] Division of
6845 Juvenile Justice and Youth Services, the Department of Corrections, the juvenile court,

or the Administrative Office of the Courts.

(6) "Satellite office" means a child-friendly facility supervised by a Children's Justice Center established in accordance with Section 67-5b-102.

(7) (a) "Volunteer" means any individual who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.

(b) "Volunteer" does not include an individual participating in human subjects research or a court-ordered compensatory service worker as defined in Section 67-20-2.

Section 89. Section **76-3-401.5** is amended to read:

76-3-401.5 (Effective 05/01/24). Concurrent or consecutive sentence with a juvenile disposition.

(1) As used in this section:

(a) "Authority" means the Youth Parole Authority created in Section 80-5-701.

(b) "Board" means the Board of Pardons and Parole created in Section 77-27-2.

(c) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services created in Section 80-5-103.

(d) (i) "Juvenile disposition" means an order for commitment to the custody of the division under Subsection 80-6-703(2).

(ii) "Juvenile disposition" includes an order for secure care under Subsection 80-6-705 (1).

(e) "Secure correctional facility" means the same as that term is defined in Section 64-13-1.

(f) "Secure care" means the same as that term is defined in Section 80-1-102.

(2) If a defendant who is 18 years old or older is serving a juvenile disposition, a court may not terminate the juvenile disposition for the defendant when:

(a) the defendant is convicted of an offense; and

(b) the court imposes a sentence under Section 76-3-201 for the offense.

(3) (a) If a defendant who is 18 years old or older is convicted and sentenced for an offense and the defendant is serving a juvenile disposition at the time of sentencing, the court shall determine whether the sentence is to run concurrently or consecutively to the juvenile disposition.

(b) The court shall state on the record and in the order of judgment and commitment whether the sentence imposed is to run concurrently or consecutively with the juvenile disposition.

- 6880 (c) In determining whether a sentence is to run concurrently or consecutively with a
6881 juvenile disposition, the court shall consider:
- 6882 (i) the gravity and circumstances of the offense for which the defendant is convicted;
6883 (ii) the number of victims; and
6884 (iii) the history, character, and rehabilitative needs of the defendant.
- 6885 (d) If an order of judgment and commitment does not clearly state whether the sentence
6886 is to run consecutively or concurrently with the juvenile disposition, the division shall
6887 request clarification from the court.
- 6888 (e) Upon receipt of the request under Subsection (3)(d), the court shall enter a clarified
6889 order of judgment and commitment stating whether the sentence is to run
6890 concurrently or consecutively to the juvenile disposition.
- 6891 (4) If a court orders a sentence for imprisonment to run concurrently with a juvenile
6892 disposition for secure care, the defendant shall serve the sentence in secure care until the
6893 juvenile disposition is terminated by the authority in accordance with Section 80-6-804.
- 6894 (5) If a court orders a sentence for imprisonment in a county jail to run concurrently with a
6895 juvenile disposition for secure care and the disposition is terminated before the
6896 defendant's sentence for imprisonment in the county jail is terminated, the division shall:
- 6897 (a) notify the county jail at least 14 days before the day on which the defendant's
6898 disposition is terminated or the defendant is released from secure care; and
6899 (b) facilitate the transfer or release of the defendant in accordance with the order of
6900 judgment and commitment imposed by the court.
- 6901 (6) (a) If a court orders a sentence for imprisonment in a secure correctional facility to
6902 run concurrently with a juvenile disposition for secure care:
- 6903 (i) the board has authority over the defendant for purposes of ordering parole, pardon,
6904 commutation, termination of sentence, remission of fines or forfeitures,
6905 restitution, and any other authority granted by law; and
6906 (ii) the court and the division shall immediately notify the board that the defendant
6907 will remain in secure care as described in Subsection (4) for the board to schedule
6908 a hearing for the defendant in accordance with board procedures.
- 6909 (b) If a court orders a sentence for imprisonment in a secure correctional facility to run
6910 concurrently with a juvenile disposition for secure care and the juvenile disposition is
6911 terminated before the defendant's sentence is terminated, the division shall:
- 6912 (i) notify the board and the Department of Corrections at least 14 days before the day
6913 on which the defendant's disposition is terminated or the defendant is released

6914 from the secure care; and
6915 (ii) facilitate a release or transfer of the defendant in accordance with the order of
6916 judgment and commitment imposed by the court.

6917 Section 90. Section **76-5-101** is amended to read:

6918 **76-5-101 (Effective 05/01/24). Definitions.**

6919 Unless otherwise provided, as used in this part:

6920 (1) "Detained individual" means an individual detained under Section 77-7-15.

6921 (2) "Prisoner" means an individual who is in custody of a peace officer pursuant to a lawful
6922 arrest or who is confined in a jail or other penal institution or a facility used for
6923 confinement of delinquent juveniles operated by the [~~Division of Juvenile Justice~~
6924 ~~Services~~] Division of Juvenile Justice and Youth Services regardless of whether the
6925 confinement is legal.

6926 Section 91. Section **76-5-413** is amended to read:

6927 **76-5-413 (Effective 05/01/24). Custodial sexual relations with youth receiving**
6928 **state services -- Penalties -- Defenses and limitations.**

6929 (1) (a) As used in this section:

6930 (i) "Actor" means:

6931 (A) an individual employed by the Department of Health and Human Services
6932 created in Section 26B-1-201, or an employee of a private provider or
6933 contractor; or

6934 (B) an individual employed by the juvenile court of the state, or an employee of a
6935 private provider or contractor.

6936 (ii) "Department" means the Department of Health and Human Services created in
6937 Section 26B-1-201.

6938 (iii) "Juvenile court" means the juvenile court of the state created in Section
6939 78A-6-102.

6940 (iv) "Private provider or contractor" means a person that contracts with the:

6941 (A) department to provide services or functions that are part of the operation of
6942 the department; or

6943 (B) juvenile court to provide services or functions that are part of the operation of
6944 the juvenile court.

6945 (v) "Youth receiving state services" means an individual:

6946 (A) younger than 18 years old, except as provided under Subsection (1)(a)(v)(B),
6947 who is:

- 6948 (I) in the custody of the department under Section 80-6-703; or
6949 (II) receiving services from any division of the department if any portion of the
6950 costs of these services is covered by public money; or
6951 (B) younger than 21 years old:
6952 (I) who is in the custody of the [~~Division of Juvenile Justice Services~~] Division
6953 of Juvenile Justice and Youth Services, or the Division of Child and Family
6954 Services; or
6955 (II) whose case is under the jurisdiction of the juvenile court.
6956 (b) Terms defined in Section 76-1-101.5 apply to this section.
6957 (2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an
6958 actor commits custodial sexual relations with a youth receiving state services if:
6959 (i) the actor commits any of the acts described in Subsection (2)(b); and
6960 (ii) (A) the actor knows that the individual is a youth receiving state services; or
6961 (B) a reasonable person in the actor's position should have known under the
6962 circumstances that the individual was a youth receiving state services.
6963 (b) Acts referred to in Subsection (2)(a)(i) are:
6964 (i) having sexual intercourse with a youth receiving state services;
6965 (ii) engaging in any sexual act with a youth receiving state services involving the
6966 genitals of one individual and the mouth or anus of another individual; or
6967 (iii) (A) causing the penetration, however slight, of the genital or anal opening of a
6968 youth receiving state services by any foreign object, substance, instrument, or
6969 device, including a part of the human body; and
6970 (B) with the intent to cause substantial emotional or bodily pain to any individual
6971 or with the intent to arouse or gratify the sexual desire of any individual.
6972 (c) Any touching, even if accomplished through clothing, is sufficient to constitute the
6973 relevant element of a violation of Subsection (2)(a).
6974 (3) (a) A violation of Subsection (2) is a third degree felony.
6975 (b) Notwithstanding Subsection (3)(a), if the youth receiving state services is younger
6976 than 18 years old, a violation of Subsection (2) is a second degree felony.
6977 (c) If the act committed under Subsection (2) amounts to an offense subject to a greater
6978 penalty under another provision of state law than is provided under this Subsection
6979 (3), this Subsection (3) does not prohibit prosecution and sentencing for the more
6980 serious offense.
6981 (4) The offenses referred to in Subsection (2) are:

- 6982 (a) unlawful sexual activity with a minor, in violation of Section 76-5-401;
 6983 (b) rape, in violation of Section 76-5-402;
 6984 (c) rape of a child, in violation of Section 76-5-402.1;
 6985 (d) object rape, in violation of Section 76-5-402.2;
 6986 (e) object rape of a child, in violation of Section 76-5-402.3;
 6987 (f) forcible sodomy, in violation of Section 76-5-403;
 6988 (g) sodomy on a child, in violation of Section 76-5-403.1;
 6989 (h) forcible sexual abuse, in violation of Section 76-5-404;
 6990 (i) sexual abuse of a child, in violation of Section 76-5-404.1;
 6991 (j) aggravated sexual abuse of a child, in violation of Section 76-5-404.3;
 6992 (k) aggravated sexual assault, in violation of Section 76-5-405; or
 6993 (l) an attempt to commit an offense listed in Subsections (4)(a) through (4)(k).
- 6994 (5) (a) It is not a defense to the commission of, or an attempt to commit, the offense
 6995 described in Subsection (2) if the youth receiving state services is younger than 18
 6996 years old, that the actor:
- 6997 (i) mistakenly believed the youth receiving state services to be 18 years old or older
 6998 at the time of the alleged offense; or
 6999 (ii) was unaware of the true age of the youth receiving state services.
- 7000 (b) Consent of the youth receiving state services is not a defense to any violation or
 7001 attempted violation of Subsection (2).
- 7002 (6) It is a defense that the commission by the actor of an act under Subsection (2) is the
 7003 result of compulsion, as the defense is described in Subsection 76-2-302(1).
- 7004 Section 92. Section **76-8-311.5** is amended to read:
- 7005 **76-8-311.5 (Effective 05/01/24). Aiding or concealing a juvenile offender --**
 7006 **Trespass of a secure care facility -- Criminal penalties.**
- 7007 (1) As used in this section:
- 7008 (a) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile
 7009 Justice and Youth Services created in Section 80-5-103.
- 7010 (b) "Juvenile offender" means the same as that term is defined in Section 80-1-102.
- 7011 (c) "Secure care" means the same as that term is defined in Section 80-1-102.
- 7012 (d) "Secure care facility" means the same as that term is defined in Section 80-1-102.
- 7013 (2) An individual who commits any of the following offenses is guilty of a class A
 7014 misdemeanor:
- 7015 (a) entering, or attempting to enter, a building or enclosure appropriated to the use of

- 7016 juvenile offenders, without permission;
- 7017 (b) entering any premises belonging to a secure care facility and committing or
- 7018 attempting to commit a trespass or damage on the premises of a secure care facility;
- 7019 or
- 7020 (c) willfully annoying or disturbing the peace and quiet of a secure care facility or of a
- 7021 juvenile offender in a secure care facility.
- 7022 (3) An individual is guilty of a third degree felony who:
- 7023 (a) knowingly harbors or conceals a juvenile offender who has:
- 7024 (i) escaped from secure care; or
- 7025 (ii) as described in Subsection (4), absconded from:
- 7026 (A) a facility or supervision; or
- 7027 (B) supervision of the division; or
- 7028 (b) willfully aided or assisted a juvenile offender who has been lawfully committed to a
- 7029 secure care facility in escaping or attempting to escape from the secure care facility.
- 7030 (4) As used in this section:
- 7031 (a) a juvenile offender absconds from a facility under this section when the juvenile
- 7032 offender:
- 7033 (i) leaves the facility without permission; or
- 7034 (ii) fails to return at a prescribed time.
- 7035 (b) A juvenile offender absconds from supervision when the juvenile offender:
- 7036 (i) changes the juvenile offender's residence from the residence that the juvenile
- 7037 offender reported to the division as the juvenile offender's correct address to
- 7038 another residence, without notifying the division or obtaining permission; or
- 7039 (ii) for the purpose of avoiding supervision:
- 7040 (A) hides at a different location from the juvenile offender's reported residence; or
- 7041 (B) leaves the juvenile offender's reported residence.
- 7042 Section 93. Section **77-16b-102** is amended to read:
- 7043 **77-16b-102 (Effective 05/01/24). Definitions.**
- 7044 As used in this chapter:
- 7045 (1) "Correctional facility" means:
- 7046 (a) a county jail;
- 7047 (b) a secure correctional facility as defined by Section 64-13-1; or
- 7048 (c) a secure care facility as defined in Section 80-1-102.
- 7049 (2) "Correctional facility administrator" means:

- 7050 (a) a county sheriff in charge of a county jail;
- 7051 (b) a designee of the executive director of the Utah Department of Corrections; or
- 7052 (c) a designee of the director of the [~~Division of Juvenile Justice Services~~] Division of
- 7053 Juvenile Justice and Youth Services.
- 7054 (3) "Medical supervision" means under the direction of a licensed physician, physician
- 7055 assistant, or nurse practitioner.
- 7056 (4) "Mental health therapist" means the same as that term is defined in Section 58-60-102.
- 7057 (5) "Prisoner" means:
- 7058 (a) any individual who is a pretrial detainee or who has been committed to the custody
- 7059 of a sheriff or the Utah Department of Corrections, and who is physically in a
- 7060 correctional facility; and
- 7061 (b) any individual who is 18 years old or older and younger than 21 years old, and who
- 7062 has been committed to the custody of the [~~Division of Juvenile Justice Services~~]
- 7063 Division of Juvenile Justice and Youth Services.
- 7064 Section 94. Section **77-38-3** is amended to read:
- 7065 **77-38-3 (Effective 05/01/24). Notification to victims -- Initial notice, election to**
- 7066 **receive subsequent notices -- Form of notice -- Protected victim information --**
- 7067 **Pretrial criminal no contact order.**
- 7068 (1) Within seven days after the day on which felony criminal charges are filed against a
- 7069 defendant, the prosecuting agency shall provide an initial notice to reasonably
- 7070 identifiable and locatable victims of the crime contained in the charges, except as
- 7071 otherwise provided in this chapter.
- 7072 (2) The initial notice to the victim of a crime shall provide information about electing to
- 7073 receive notice of subsequent important criminal justice hearings listed in Subsections
- 7074 77-38-2(5)(a) through (g) and rights under this chapter.
- 7075 (3) The prosecuting agency shall provide notice to a victim of a crime:
- 7076 (a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a)
- 7077 through (g), which the victim has requested; and
- 7078 (b) for a restitution request to be submitted in accordance with Section 77-38b-202.
- 7079 (4) (a) The responsible prosecuting agency may provide initial and subsequent notices in
- 7080 any reasonable manner, including telephonically, electronically, orally, or by means
- 7081 of a letter or form prepared for this purpose.
- 7082 (b) In the event of an unforeseen important criminal justice hearing, described in
- 7083 Subsections 77-38-2(5)(a) through (g) for which a victim has requested notice, a

- 7084 good faith attempt to contact the victim by telephone shall be considered sufficient
7085 notice, provided that the prosecuting agency subsequently notifies the victim of the
7086 result of the proceeding.
- 7087 (5) (a) The court shall take reasonable measures to ensure that its scheduling practices
7088 for the proceedings provided in Subsections 77-38-2(5)(a) through (g) permit an
7089 opportunity for victims of crimes to be notified.
- 7090 (b) The court shall consider whether any notification system that the court might use to
7091 provide notice of judicial proceedings to defendants could be used to provide notice
7092 of judicial proceedings to victims of crimes.
- 7093 (6) A defendant or, if it is the moving party, the Division of Adult Probation and Parole,
7094 shall give notice to the responsible prosecuting agency of any motion for modification of
7095 any determination made at any of the important criminal justice hearings provided in
7096 Subsections 77-38-2(5)(a) through (g) in advance of any requested court hearing or
7097 action so that the prosecuting agency may comply with the prosecuting agency's
7098 notification obligation.
- 7099 (7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and
7100 Parole for the important criminal justice hearing under Subsection 77-38-2(5)(h).
- 7101 (b) The board may provide notice in any reasonable manner, including telephonically,
7102 electronically, orally, or by means of a letter or form prepared for this purpose.
- 7103 (8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to
7104 a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through
7105 (g) only where the victim has responded to the initial notice, requested notice of
7106 subsequent proceedings, and provided a current address and telephone number if
7107 applicable.
- 7108 (9) To facilitate the payment of restitution and the notice of hearings regarding restitution, a
7109 victim who seeks restitution and notice of restitution hearings shall provide the court
7110 with the victim's current address and telephone number.
- 7111 (10) (a) Law enforcement and criminal justice agencies shall refer any requests for
7112 notice or information about crime victim rights from victims to the responsible
7113 prosecuting agency.
- 7114 (b) In a case in which the Board of Pardons and Parole is involved, the responsible
7115 prosecuting agency shall forward any request for notice the prosecuting agency has
7116 received from a victim to the Board of Pardons and Parole.
- 7117 (11) In all cases where the number of victims exceeds 10, the responsible prosecuting

agency may send any notices required under this chapter in the prosecuting agency's discretion to a representative sample of the victims.

(12) (a) A victim's address, telephone number, and victim impact statement maintained by a peace officer, prosecuting agency, Youth Parole Authority, [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services, Department of Corrections, Utah State Courts, and Board of Pardons and Parole, for purposes of providing notice under this section, are classified as protected under Subsection 63G-2-305(10).

(b) The victim's address, telephone number, and victim impact statement is available only to the following persons or entities in the performance of their duties:

- (i) a law enforcement agency, including the prosecuting agency;
- (ii) a victims' right committee as provided in Section 77-37-5;
- (iii) a governmentally sponsored victim or witness program;
- (iv) the Department of Corrections;
- (v) the Utah Office for Victims of Crime;
- (vi) the Commission on Criminal and Juvenile Justice;
- (vii) the Utah State Courts; and
- (viii) the Board of Pardons and Parole.

(13) The notice provisions as provided in this section do not apply to misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section 77-38-2.

(14) (a) When a defendant is charged with a felony crime under Sections 76-5-301 through 76-5-310.1 regarding kidnapping, human trafficking, and human smuggling; Sections 76-5-401 through 76-5-413.2 regarding sexual offenses; or Section 76-10-1306 regarding aggravated exploitation of prostitution, the court may, during any court hearing where the defendant is present, issue a pretrial criminal no contact order:

- (i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim directly or through a third party;
- (ii) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any specified place frequented by the victim or any designated family member of the victim directly or through a third party; and
- (iii) ordering any other relief that the court considers necessary to protect and provide

7152 for the safety of the victim and any designated family or household member of the
7153 victim.

7154 (b) Violation of a pretrial criminal no contact order issued pursuant to this section is a
7155 third degree felony.

7156 (c) (i) The court shall provide to the victim a certified copy of any pretrial criminal
7157 no contact order that has been issued if the victim can be located with reasonable
7158 effort.

7159 (ii) The court shall also transmit the pretrial criminal no contact order to the statewide
7160 domestic violence network in accordance with Section 78B-7-113.

7161 (15) (a) When a case involving a victim may resolve before trial with a plea deal, the
7162 prosecutor shall notify the victim of that possibility as soon as practicable.

7163 (b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall
7164 explain the available details of an anticipated plea deal.

7165 Section 95. Section **77-41-102** is amended to read:

7166 **77-41-102 (Effective 05/01/24) (Superseded 07/01/24). Definitions.**

7167 As used in this chapter:

7168 (1) "Bureau" means the Bureau of Criminal Identification of the Department of Public
7169 Safety established in section 53-10-201.

7170 (2) "Business day" means a day on which state offices are open for regular business.

7171 (3) "Certificate of eligibility" means a document issued by the Bureau of Criminal
7172 Identification showing that the offender has met the requirements of Section 77-41-112.

7173 (4) (a) "Convicted" means a plea or conviction of:

7174 (i) guilty;

7175 (ii) guilty with a mental condition; or

7176 (iii) no contest.

7177 (b) "Convicted" includes, unless otherwise specified, the period a plea is held in
7178 abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.

7179 (c) "Convicted" does not include:

7180 (i) a withdrawn or dismissed plea in abeyance;

7181 (ii) a diversion agreement; or

7182 (iii) an adjudication of a minor for an offense under Section 80-6-701.

7183 (5) "Department" means the Department of Corrections.

7184 (6) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice
7185 and Youth Services.

- 7186 (7) "Employed" or "carries on a vocation" includes employment that is full time or part
7187 time, whether financially compensated, volunteered, or for the purpose of government or
7188 educational benefit.
- 7189 (8) "Indian Country" means:
- 7190 (a) all land within the limits of any Indian reservation under the jurisdiction of the
7191 United States government, regardless of the issuance of any patent, and includes
7192 rights-of-way running through the reservation;
- 7193 (b) all dependent Indian communities within the borders of the United States whether
7194 within the original or subsequently acquired territory, and whether or not within the
7195 limits of a state; and
- 7196 (c) all Indian allotments, including the Indian allotments to which the Indian titles have
7197 not been extinguished, including rights-of-way running through the allotments.
- 7198 (9) "Jurisdiction" means any state, Indian Country, United States Territory, or any property
7199 under the jurisdiction of the United States military, Canada, the United Kingdom,
7200 Australia, or New Zealand.
- 7201 (10) "Kidnap offender" means any individual, other than a natural parent of the victim:
- 7202 (a) who has been convicted in this state of a violation of:
- 7203 (i) Subsection 76-5-301(2)(c) or (d), kidnapping;
- 7204 (ii) Section 76-5-301.1, child kidnapping;
- 7205 (iii) Section 76-5-302, aggravated kidnapping;
- 7206 (iv) Section 76-5-308, human trafficking for labor;
- 7207 (v) Section 76-5-308.3, human smuggling;
- 7208 (vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18
7209 years old;
- 7210 (vii) Section 76-5-308.5, human trafficking of a child for labor;
- 7211 (viii) Section 76-5-310, aggravated human trafficking;
- 7212 (ix) Section 76-5-310.1, aggravated human smuggling;
- 7213 (x) Section 76-5-311, human trafficking of a vulnerable adult for labor; or
- 7214 (xi) attempting, soliciting, or conspiring to commit any felony offense listed in
7215 Subsections (10)(a)(i) through (x);
- 7216 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy
7217 to commit a crime in another jurisdiction, including any state, federal, or military
7218 court that is substantially equivalent to the offenses listed in Subsection (10)(a);
7219 and

- 7220 (ii) who is:
- 7221 (A) a Utah resident; or
- 7222 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total
- 7223 of 10 or more days, regardless of whether or not the offender intends to
- 7224 permanently reside in this state;
- 7225 (c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction
- 7226 of original conviction;
- 7227 (B) who is required to register as a kidnap offender by any state, federal, or
- 7228 military court; or
- 7229 (C) who would be required to register as a kidnap offender if residing in the
- 7230 jurisdiction of the conviction regardless of the date of the conviction or any
- 7231 previous registration requirements; and
- 7232 (ii) in any 12-month period, who is in this state for a total of 10 or more days,
- 7233 regardless of whether or not the offender intends to permanently reside in this
- 7234 state;
- 7235 (d) (i) (A) who is a nonresident regularly employed or working in this state; or
- 7236 (B) who is a student in this state; and
- 7237 (ii) (A) who was convicted of one or more offenses listed in Subsection (10), or
- 7238 any substantially equivalent offense in another jurisdiction; or
- 7239 (B) as a result of the conviction, who is required to register in the individual's state
- 7240 of residence;
- 7241 (e) who is found not guilty by reason of insanity in this state or in any other jurisdiction
- 7242 of one or more offenses listed in Subsection (10); or
- 7243 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
- 7244 Subsection (10)(a); and
- 7245 (ii) who has been committed to the division for secure care, as defined in Section
- 7246 80-1-102, for that offense if:
- 7247 (A) the individual remains in the division's custody until 30 days before the
- 7248 individual's 21st birthday;
- 7249 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
- 7250 under Section 80-6-605 and the individual remains in the division's custody
- 7251 until 30 days before the individual's 25th birthday; or
- 7252 (C) the individual is moved from the division's custody to the custody of the
- 7253 department before expiration of the division's jurisdiction over the individual.

- 7254 (11) "Natural parent" means a minor's biological or adoptive parent, and includes the
7255 minor's noncustodial parent.
- 7256 (12) "Offender" means a kidnap offender as defined in Subsection (10) or a sex offender as
7257 defined in Subsection (18).
- 7258 (13) "Online identifier" or "Internet identifier":
7259 (a) means any electronic mail, chat, instant messenger, social networking, or similar
7260 name used for Internet communication; and
7261 (b) does not include date of birth, social security number, PIN number, or Internet
7262 passwords.
- 7263 (14) "Primary residence" means the location where the offender regularly resides, even if
7264 the offender intends to move to another location or return to another location at any
7265 future date.
- 7266 (15) "Register" means to comply with the requirements of this chapter and administrative
7267 rules of the department made under this chapter.
- 7268 (16) "Registration website" means the Sex and Kidnap Offender Notification and
7269 Registration website described in Section 77-41-110 and the information on the website.
- 7270 (17) "Secondary residence" means any real property that the offender owns or has a
7271 financial interest in, or any location where, in any 12-month period, the offender stays
7272 overnight a total of 10 or more nights when not staying at the offender's primary
7273 residence.
- 7274 (18) "Sex offender" means any individual:
7275 (a) convicted in this state of:
7276 (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;
7277 (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult;
7278 (iii) Section 76-5-308.1, human trafficking for sexual exploitation;
7279 (iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;
7280 (v) Section 76-5-310, aggravated human trafficking for sexual exploitation;
7281 (vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;
7282 (vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in
7283 Subsection 76-5-401(3)(b) or (c);
7284 (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection
7285 76-5-401.1(3);
7286 (ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;
7287 (x) Section 76-5-402, rape;

- 7288 (xi) Section 76-5-402.1, rape of a child;
- 7289 (xii) Section 76-5-402.2, object rape;
- 7290 (xiii) Section 76-5-402.3, object rape of a child;
- 7291 (xiv) a felony violation of Section 76-5-403, forcible sodomy;
- 7292 (xv) Section 76-5-403.1, sodomy on a child;
- 7293 (xvi) Section 76-5-404, forcible sexual abuse;
- 7294 (xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated
- 7295 sexual abuse of a child;
- 7296 (xviii) Section 76-5-405, aggravated sexual assault;
- 7297 (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is
- 7298 younger than 18 years old, if the offense is committed on or after May 10, 2011;
- 7299 (xx) Section 76-5b-201, sexual exploitation of a minor;
- 7300 (xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;
- 7301 (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
- 7302 (xxiii) Section 76-7-102, incest;
- 7303 (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense
- 7304 four or more times;
- 7305 (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the
- 7306 offense four or more times;
- 7307 (xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section
- 7308 76-9-702.1, sexual battery, that total four or more convictions;
- 7309 (xxvii) Section 76-9-702.5, lewdness involving a child;
- 7310 (xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
- 7311 (xxix) Section 76-10-1306, aggravated exploitation of prostitution; or
- 7312 (xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this
- 7313 Subsection (18)(a);
- 7314 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy
- 7315 to commit a crime in another jurisdiction, including any state, federal, or military
- 7316 court that is substantially equivalent to the offenses listed in Subsection (18)(a);
- 7317 and
- 7318 (ii) who is:
- 7319 (A) a Utah resident; or
- 7320 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total
- 7321 of 10 or more days, regardless of whether the offender intends to permanently

- 7322 reside in this state;
- 7323 (c) (i) (A) who is required to register as a sex offender in any other jurisdiction of
- 7324 original conviction;
- 7325 (B) who is required to register as a sex offender by any state, federal, or military
- 7326 court; or
- 7327 (C) who would be required to register as a sex offender if residing in the
- 7328 jurisdiction of the original conviction regardless of the date of the conviction or
- 7329 any previous registration requirements; and
- 7330 (ii) who, in any 12-month period, is in the state for a total of 10 or more days,
- 7331 regardless of whether or not the offender intends to permanently reside in this
- 7332 state;
- 7333 (d) (i) (A) who is a nonresident regularly employed or working in this state; or
- 7334 (B) who is a student in this state; and
- 7335 (ii) (A) who was convicted of one or more offenses listed in Subsection (18)(a), or
- 7336 any substantially equivalent offense in any jurisdiction; or
- 7337 (B) who is, as a result of the conviction, required to register in the individual's
- 7338 jurisdiction of residence;
- 7339 (e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction
- 7340 of one or more offenses listed in Subsection (18)(a); or
- 7341 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
- 7342 Subsection (18)(a); and
- 7343 (ii) who has been committed to the division for secure care, as defined in Section
- 7344 80-1-102, for that offense if:
- 7345 (A) the individual remains in the division's custody until 30 days before the
- 7346 individual's 21st birthday;
- 7347 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
- 7348 under Section 80-6-605 and the individual remains in the division's custody
- 7349 until 30 days before the individual's 25th birthday; or
- 7350 (C) the individual is moved from the division's custody to the custody of the
- 7351 department before expiration of the division's jurisdiction over the individual.
- 7352 (19) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving
- 7353 Under the Influence and Reckless Driving.
- 7354 (20) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any
- 7355 jurisdiction.

7356 Section 96. Section **77-41-102** is amended to read:

7357 **77-41-102 (Effective 07/01/24). Definitions.**

7358 As used in this chapter:

7359 (1) "Bureau" means the Bureau of Criminal Identification of the Department of Public
7360 Safety established in section 53-10-201.

7361 (2) "Business day" means a day on which state offices are open for regular business.

7362 (3) "Certificate of eligibility" means a document issued by the Bureau of Criminal
7363 Identification showing that the offender has met the requirements of Section 77-41-112.

7364 (4) (a) "Convicted" means a plea or conviction of:

7365 (i) guilty;

7366 (ii) guilty with a mental illness; or

7367 (iii) no contest.

7368 (b) "Convicted" includes, unless otherwise specified, the period a plea is held in
7369 abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.

7370 (c) "Convicted" does not include:

7371 (i) a withdrawn or dismissed plea in abeyance;

7372 (ii) a diversion agreement; or

7373 (iii) an adjudication of a minor for an offense under Section 80-6-701.

7374 (5) "Department" means the Department of Public Safety.

7375 (6) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice
7376 and Youth Services.

7377 (7) "Employed" or "carries on a vocation" includes employment that is full time or part
7378 time, whether financially compensated, volunteered, or for the purpose of government or
7379 educational benefit.

7380 (8) "Indian Country" means:

7381 (a) all land within the limits of any Indian reservation under the jurisdiction of the
7382 United States government, regardless of the issuance of any patent, and includes
7383 rights-of-way running through the reservation;

7384 (b) all dependent Indian communities within the borders of the United States whether
7385 within the original or subsequently acquired territory, and whether or not within the
7386 limits of a state; and

7387 (c) all Indian allotments, including the Indian allotments to which the Indian titles have
7388 not been extinguished, including rights-of-way running through the allotments.

7389 (9) "Jurisdiction" means any state, Indian Country, United States Territory, or any property

- 7390 under the jurisdiction of the United States military, Canada, the United Kingdom,
7391 Australia, or New Zealand.
- 7392 (10) "Kidnap offender" means any individual, other than a natural parent of the victim:
- 7393 (a) who has been convicted in this state of a violation of:
- 7394 (i) Subsection 76-5-301(2)(c) or (d), kidnapping;
- 7395 (ii) Section 76-5-301.1, child kidnapping;
- 7396 (iii) Section 76-5-302, aggravated kidnapping;
- 7397 (iv) Section 76-5-308, human trafficking for labor;
- 7398 (v) Section 76-5-308.3, human smuggling;
- 7399 (vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18
7400 years old;
- 7401 (vii) Section 76-5-308.5, human trafficking of a child for labor;
- 7402 (viii) Section 76-5-310, aggravated human trafficking;
- 7403 (ix) Section 76-5-310.1, aggravated human smuggling;
- 7404 (x) Section 76-5-311, human trafficking of a vulnerable adult for labor; or
- 7405 (xi) attempting, soliciting, or conspiring to commit any felony offense listed in
7406 Subsections (10)(a)(i) through (x);
- 7407 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy
7408 to commit a crime in another jurisdiction, including any state, federal, or military
7409 court that is substantially equivalent to the offenses listed in Subsection (10)(a);
7410 and
- 7411 (ii) who is:
- 7412 (A) a Utah resident; or
- 7413 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total
7414 of 10 or more days, regardless of whether or not the offender intends to
7415 permanently reside in this state;
- 7416 (c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction
7417 of original conviction;
- 7418 (B) who is required to register as a kidnap offender by any state, federal, or
7419 military court; or
- 7420 (C) who would be required to register as a kidnap offender if residing in the
7421 jurisdiction of the conviction regardless of the date of the conviction or any
7422 previous registration requirements; and
- 7423 (ii) in any 12-month period, who is in this state for a total of 10 or more days,

- 7424 regardless of whether or not the offender intends to permanently reside in this
7425 state;
- 7426 (d) (i) (A) who is a nonresident regularly employed or working in this state; or
7427 (B) who is a student in this state; and
7428 (ii) (A) who was convicted of one or more offenses listed in Subsection (10), or
7429 any substantially equivalent offense in another jurisdiction; or
7430 (B) as a result of the conviction, who is required to register in the individual's state
7431 of residence;
- 7432 (e) who is found not guilty by reason of insanity in this state or in any other jurisdiction
7433 of one or more offenses listed in Subsection (10); or
- 7434 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
7435 Subsection (10)(a); and
7436 (ii) who has been committed to the division for secure care, as defined in Section
7437 80-1-102, for that offense if:
7438 (A) the individual remains in the division's custody until 30 days before the
7439 individual's 21st birthday;
7440 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
7441 under Section 80-6-605 and the individual remains in the division's custody
7442 until 30 days before the individual's 25th birthday; or
7443 (C) the individual is moved from the division's custody to the custody of the
7444 department before expiration of the division's jurisdiction over the individual.
- 7445 (11) "Natural parent" means a minor's biological or adoptive parent, and includes the
7446 minor's noncustodial parent.
- 7447 (12) "Offender" means a kidnap offender as defined in Subsection (10) or a sex offender as
7448 defined in Subsection (18).
- 7449 (13) "Online identifier" or "Internet identifier":
7450 (a) means any electronic mail, chat, instant messenger, social networking, or similar
7451 name used for Internet communication; and
7452 (b) does not include date of birth, social security number, PIN number, or Internet
7453 passwords.
- 7454 (14) "Primary residence" means the location where the offender regularly resides, even if
7455 the offender intends to move to another location or return to another location at any
7456 future date.
- 7457 (15) "Register" means to comply with the requirements of this chapter and administrative

7458 rules of the department made under this chapter.

7459 (16) "Registration website" means the Sex and Kidnap Offender Notification and
7460 Registration website described in Section 77-41-110 and the information on the website.

7461 (17) "Secondary residence" means any real property that the offender owns or has a
7462 financial interest in, or any location where, in any 12-month period, the offender stays
7463 overnight a total of 10 or more nights when not staying at the offender's primary
7464 residence.

7465 (18) "Sex offender" means any individual:

7466 (a) convicted in this state of:

7467 (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

7468 (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult;

7469 (iii) Section 76-5-308.1, human trafficking for sexual exploitation;

7470 (iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

7471 (v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

7472 (vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

7473 (vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in
7474 Subsection 76-5-401(3)(b) or (c);

7475 (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection
7476 76-5-401.1(3);

7477 (ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

7478 (x) Section 76-5-402, rape;

7479 (xi) Section 76-5-402.1, rape of a child;

7480 (xii) Section 76-5-402.2, object rape;

7481 (xiii) Section 76-5-402.3, object rape of a child;

7482 (xiv) a felony violation of Section 76-5-403, forcible sodomy;

7483 (xv) Section 76-5-403.1, sodomy on a child;

7484 (xvi) Section 76-5-404, forcible sexual abuse;

7485 (xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated
7486 sexual abuse of a child;

7487 (xviii) Section 76-5-405, aggravated sexual assault;

7488 (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is
7489 younger than 18 years old, if the offense is committed on or after May 10, 2011;

7490 (xx) Section 76-5b-201, sexual exploitation of a minor;

7491 (xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;

- 7492 (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
7493 (xxiii) Section 76-7-102, incest;
7494 (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense
7495 four or more times;
7496 (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the
7497 offense four or more times;
7498 (xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section
7499 76-9-702.1, sexual battery, that total four or more convictions;
7500 (xxvii) Section 76-9-702.5, lewdness involving a child;
7501 (xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
7502 (xxix) Section 76-10-1306, aggravated exploitation of prostitution; or
7503 (xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this
7504 Subsection (18)(a);
7505 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy
7506 to commit a crime in another jurisdiction, including any state, federal, or military
7507 court that is substantially equivalent to the offenses listed in Subsection (18)(a);
7508 and
7509 (ii) who is:
7510 (A) a Utah resident; or
7511 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total
7512 of 10 or more days, regardless of whether the offender intends to permanently
7513 reside in this state;
7514 (c) (i) (A) who is required to register as a sex offender in any other jurisdiction of
7515 original conviction;
7516 (B) who is required to register as a sex offender by any state, federal, or military
7517 court; or
7518 (C) who would be required to register as a sex offender if residing in the
7519 jurisdiction of the original conviction regardless of the date of the conviction or
7520 any previous registration requirements; and
7521 (ii) who, in any 12-month period, is in the state for a total of 10 or more days,
7522 regardless of whether or not the offender intends to permanently reside in this
7523 state;
7524 (d) (i) (A) who is a nonresident regularly employed or working in this state; or
7525 (B) who is a student in this state; and

- 7526 (ii) (A) who was convicted of one or more offenses listed in Subsection (18)(a), or
7527 any substantially equivalent offense in any jurisdiction; or
7528 (B) who is, as a result of the conviction, required to register in the individual's
7529 jurisdiction of residence;
- 7530 (e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction
7531 of one or more offenses listed in Subsection (18)(a); or
- 7532 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
7533 Subsection (18)(a); and
- 7534 (ii) who has been committed to the division for secure care, as defined in Section
7535 80-1-102, for that offense if:
- 7536 (A) the individual remains in the division's custody until 30 days before the
7537 individual's 21st birthday;
- 7538 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
7539 under Section 80-6-605 and the individual remains in the division's custody
7540 until 30 days before the individual's 25th birthday; or
- 7541 (C) the individual is moved from the division's custody to the custody of the
7542 department before expiration of the division's jurisdiction over the individual.
- 7543 (19) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving
7544 Under the Influence and Reckless Driving.
- 7545 (20) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any
7546 jurisdiction.
- 7547 Section 97. Section **78A-6-212** is amended to read:
- 7548 **78A-6-212 (Effective 05/01/24). Information supplied to the Division of Juvenile**
7549 **Justice and Youth Services.**
- 7550 (1) A juvenile probation officer shall render full and complete cooperation to the [~~Division~~
7551 ~~of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services in
7552 supplying the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and
7553 Youth Services with all pertinent information relating to a juvenile offender committed
7554 to the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth
7555 Services.
- 7556 (2) Information under Subsection (1) includes prior criminal history, social history,
7557 psychological evaluations, and identifying information specified by the [~~Division of~~
7558 ~~Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services.
- 7559 Section 98. Section **78B-7-804** is amended to read:

78B-7-804 (Effective 05/01/24). Sentencing and continuous protective orders for a domestic violence offense -- Modification -- Expiration.

- (1) Before a perpetrator who has been convicted of or adjudicated for a domestic violence offense may be placed on probation, the court shall consider the safety and protection of the victim and any member of the victim's family or household.
- (2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:
- (a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;
 - (b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;
 - (c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;
 - (d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;
 - (e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and
 - (f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.
- (3) (a) Because of the serious, unique, and highly traumatic nature of domestic violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of a perpetrator who is convicted of or adjudicated for domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the issuance of continuous protective orders under this Subsection (3) because of the need to provide ongoing protection for the victim and to be consistent with the purposes of protecting victims' rights under Title 77, Chapter 38, Crime Victims, and Article I, Section 28 of the Utah Constitution.
- (b) Except as provided in Subsection (6), if a perpetrator is convicted of a domestic violence offense resulting in a sentence of imprisonment, including jail, that is to be served after conviction, the court shall issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim unless:
- (i) the court determines by clear and convincing evidence that the victim does not a

- 7594 have a reasonable fear of future harm or abuse; and
- 7595 (ii) the court conducts a hearing.
- 7596 (c) (i) The court shall notify the perpetrator of the right to request a hearing.
- 7597 (ii) A victim has a right to request a hearing.
- 7598 (iii) If the perpetrator or the victim requests a hearing under this Subsection (3)(c),
- 7599 the court shall hold the hearing at the time determined by the court.
- 7600 (iv) The continuous protective order shall be in effect while the hearing is being
- 7601 scheduled and while the hearing is pending.
- 7602 (v) A prosecutor shall use reasonable efforts to notify a victim of a hearing described
- 7603 in Subsection (3)(b)(ii).
- 7604 (d) A continuous protective order is permanent in accordance with this Subsection (3)
- 7605 and may include:
- 7606 (i) an order enjoining the perpetrator from threatening to commit or committing acts
- 7607 of domestic violence against the victim or other family or household member;
- 7608 (ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or
- 7609 otherwise communicating with the victim, directly or indirectly;
- 7610 (iii) an order prohibiting the perpetrator from going to the victim's residence, school,
- 7611 place of employment, and the premises of any of these, or a specified place
- 7612 frequented regularly by the victim or any designated family or other household
- 7613 member;
- 7614 (iv) an order directing the perpetrator to pay restitution to the victim as may apply,
- 7615 and shall be enforced in accordance with Title 77, Chapter 38b, Crime Victims
- 7616 Restitution Act; and
- 7617 (v) any other order the court considers necessary to fully protect the victim and
- 7618 members of the victim's family or other household member.
- 7619 (4) A continuous protective order may be modified or dismissed only if the court
- 7620 determines by clear and convincing evidence that all requirements of Subsection (3)
- 7621 have been met and the victim does not have a reasonable fear of future harm or abuse.
- 7622 (5) Except as provided in Subsection (6), in addition to the process of issuing a continuous
- 7623 protective order described in Subsection (3), a district court may issue a continuous
- 7624 protective order at any time if the victim files a petition with the court, and after notice
- 7625 and hearing the court finds that a continuous protective order is necessary to protect the
- 7626 victim.
- 7627 (6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court

under Section 80-6-504, a continuous protective order may not be issued under this section against a perpetrator who is a minor.

- (b) Unless the court sets an earlier date for expiration, a sentencing protective order issued under this section against a perpetrator who is a minor expires on the earlier of:
- (i) the day on which the juvenile court terminates jurisdiction; or
 - (ii) in accordance with Section 80-6-807, the day on which the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services discharges the perpetrator.

Section 99. Section **78B-7-805** is amended to read:

78B-7-805 (Effective 05/01/24). Sentencing protective orders and continuous protective orders for an offense that is not domestic violence -- Modification -- Expiration.

- (1) Before a perpetrator has been convicted of or adjudicated for an offense that is not domestic violence is placed on probation, the court may consider the safety and protection of the victim and any member of the victim's family or household.
- (2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:
- (a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;
 - (b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;
 - (c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;
 - (d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;
 - (e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and
 - (f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.
- (3) (a) If a perpetrator is convicted of an offense that is not domestic violence resulting in a sentence of imprisonment that is to be served after conviction, the court may issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim if the court determines by

clear and convincing evidence that the victim has a reasonable fear of future harm or abuse.

(b) (i) The court shall notify the perpetrator of the right to request a hearing.

(ii) If the perpetrator requests a hearing under this Subsection (3), the court shall hold the hearing at the time determined by the court and the continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.

(c) Except as provided in Subsection (6), a continuous protective order is permanent in accordance with this Subsection (3)(c) and may include any order described in Subsection 78B-7-804(3)(c).

(4) A continuous protective order issued under this section may be modified or dismissed only in accordance with Subsection 78B-7-804(4).

(5) Except as provided in Subsection (6), in addition to the process of issuing a continuous protective order described in Subsection (3)(a), a district court may issue a continuous protective order at any time in accordance with Subsection 78B-7-804(5).

(6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court under Section 80-6-504, a continuous protective order may not be issued under this section against a perpetrator who is a minor.

(b) Unless the court sets an earlier date for expiration, a sentencing protective order issued under this section against a perpetrator who is a minor expires on the earlier of:

(i) the day on which the juvenile court terminates jurisdiction; or

(ii) in accordance with Section 80-6-807, the day on which the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services discharges the perpetrator.

Section 100. Section **78B-24-307** is amended to read:

78B-24-307 (Effective 05/01/24). Child-placing agency compliance.

(1) ~~[The Office of Licensing]~~ The Division of Licensing and Background Checks, created in Section 26B-2-103, may investigate an allegation that a child-placing agency has failed to comply with this part and commence an action for injunctive or other relief or initiate administrative proceedings against the child-placing agency to enforce this part.

(2) (a) The Office of Licensing may initiate a proceeding to determine whether a child-placing agency has failed to comply with this part.

(b) If the Office of Licensing finds that the child-placing agency has failed to comply, the Office of Licensing may suspend or revoke the child-placing agency's license or

7696 take other action permitted by law of the state.

7697 Section 101. Section **78B-24-308** is amended to read:

7698 **78B-24-308 (Effective 05/01/24). Rulemaking authority.**

7699 [~~The Office of Licensing~~] The Division of Licensing and Background Checks, created
7700 in Section 26B-2-103, may adopt rules under Title 63G, Chapter 3, Utah
7701 Administrative Rulemaking Act, to implement Sections 78B-24-303, 78B-24-304,
7702 78B-24-305, and 78B-24-306.

7703 Section 102. Section **80-2-301** is amended to read:

7704 **80-2-301 (Effective 05/01/24). Division responsibilities.**

7705 (1) The division is the child, youth, and family services authority of the state.

7706 (2) The division shall:

7707 (a) administer services to minors and families, including:

7708 (i) child welfare services;

7709 (ii) domestic violence services; and

7710 (iii) all other responsibilities that the Legislature or the executive director of the
7711 department may assign to the division;

7712 (b) provide the following services:

7713 (i) financial and other assistance to an individual adopting a child with special needs
7714 under Sections 80-2-806 through 80-2-809, not to exceed the amount the division
7715 would provide for the child as a legal ward of the state;

7716 (ii) non-custodial and in-home services in accordance with Section 80-2-306,
7717 including:

7718 (A) services designed to prevent family break-up; and

7719 (B) family preservation services;

7720 (iii) reunification services to families whose children are in substitute care in
7721 accordance with this chapter, Chapter 2a, Removal and Protective Custody of a
7722 Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

7723 (iv) protective supervision of a family, upon court order, in an effort to eliminate
7724 abuse or neglect of a child in that family;

7725 (v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective
7726 Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

7727 (vi) domestic violence services, in accordance with the requirements of federal law;

7728 (vii) protective services to victims of domestic violence and the victims' children, in
7729 accordance with this chapter, Chapter 2a, Removal and Protective Custody of a

- 7730 Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
7731 (viii) substitute care for dependent, abused, and neglected children;
7732 (ix) services for minors who are victims of human trafficking or human smuggling,
7733 as described in Sections 76-5-308 through 76-5-310.1, or who have engaged in
7734 prostitution or sexual solicitation, as defined in Sections 76-10-1302 and
7735 76-10-1313; and
7736 (x) training for staff and providers involved in the administration and delivery of
7737 services offered by the division in accordance with this chapter and Chapter 2a,
7738 Removal and Protective Custody of a Child;
7739 (c) establish standards for all:
7740 (i) contract providers of out-of-home care for minors and families;
7741 (ii) facilities that provide substitute care for dependent, abused, or neglected children
7742 placed in the custody of the division; and
7743 (iii) direct or contract providers of domestic violence services described in
7744 Subsection (2)(b)(vi);
7745 (d) have authority to:
7746 (i) contract with a private, nonprofit organization to recruit and train foster care
7747 families and child welfare volunteers in accordance with Section 80-2-405; and
7748 (ii) approve facilities that meet the standards established under Subsection (2)(c) to
7749 provide substitute care for dependent, abused, or neglected children placed in the
7750 custody of the division;
7751 (e) cooperate with the federal government in the administration of child welfare and
7752 domestic violence programs and other human service activities assigned by the
7753 department;
7754 (f) in accordance with Subsection (5)(a), promote and enforce state and federal laws
7755 enacted for the protection of abused, neglected, or dependent children, in accordance
7756 with this chapter and Chapter 2a, Removal and Protective Custody of a Child, unless
7757 administration is expressly vested in another division or department of the state;
7758 (g) cooperate with the Workforce Development Division within the Department of
7759 Workforce Services in meeting the social and economic needs of an individual who is
7760 eligible for public assistance;
7761 (h) compile relevant information, statistics, and reports on child and family service
7762 matters in the state;
7763 (i) prepare and submit to the department, the governor, and the Legislature reports of the

- 7764 operation and administration of the division in accordance with the requirements of
7765 Sections 80-2-1102 and 80-2-1103;
- 7766 (j) within appropriations from the Legislature, provide or contract for a variety of
7767 domestic violence services and treatment methods;
- 7768 (k) enter into contracts for programs designed to reduce the occurrence or recurrence of
7769 abuse and neglect in accordance with Section 80-2-503;
- 7770 (l) seek reimbursement of funds the division expends on behalf of a child in the
7771 protective custody, temporary custody, or custody of the division, from the child's
7772 parent or guardian in accordance with an order for child support under Section
7773 78A-6-356;
- 7774 (m) ensure regular, periodic publication, including electronic publication, regarding the
7775 number of children in the custody of the division who:
- 7776 (i) have a permanency goal of adoption; or
7777 (ii) have a final plan of termination of parental rights, under Section 80-3-409, and
7778 promote adoption of the children;
- 7779 (n) subject to Subsections (5) and (7), refer an individual receiving services from the
7780 division to the local substance abuse authority or other private or public resource for
7781 a court-ordered drug screening test;
- 7782 (o) report before November 30, 2020, and every third year thereafter, to the Social
7783 Services Appropriations Subcommittee regarding:
- 7784 (i) the daily reimbursement rate that is provided to licensed foster parents based on
7785 level of care;
- 7786 (ii) the amount of money spent on daily reimbursements for licensed foster parents
7787 during the previous fiscal year; and
- 7788 (iii) any recommended changes to the division's budget to support the daily
7789 reimbursement rates described in Subsection (2)(o)(i); and
- 7790 (p) perform other duties and functions required by law.
- 7791 (3) (a) The division may provide, directly or through contract, services that include the
7792 following:
- 7793 (i) adoptions;
- 7794 (ii) day-care services;
- 7795 (iii) out-of-home placements for minors;
- 7796 (iv) health-related services;
- 7797 (v) homemaking services;

- 7798 (vi) home management services;
7799 (vii) protective services for minors;
7800 (viii) transportation services; or
7801 (ix) domestic violence services.
- 7802 (b) The division shall monitor services provided directly by the division or through
7803 contract to ensure compliance with applicable law and rules made in accordance with
7804 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 7805 (c) (i) Except as provided in Subsection (3)(c)(ii), if the division provides a service
7806 through a private contract, the division shall post the name of the service provider
7807 on the division's website.
- 7808 (ii) Subsection (3)(c)(i) does not apply to a foster parent placement.
- 7809 (4) (a) The division may:
- 7810 (i) receive gifts, grants, devises, and donations;
7811 (ii) encourage merchants and service providers to:
7812 (A) donate goods or services; or
7813 (B) provide goods or services at a nominal price or below cost;
7814 (iii) distribute goods to applicants or consumers of division services free or for a
7815 nominal charge and tax free; and
7816 (iv) appeal to the public for funds to meet needs of applicants or consumers of
7817 division services that are not otherwise provided by law, including Sub-for-Santa
7818 programs, recreational programs for minors, and requests for household
7819 appliances and home repairs.
- 7820 (b) If requested by the donor and subject to state and federal law, the division shall use a
7821 gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for
7822 the purpose requested by the donor.
- 7823 (5) (a) In carrying out the requirements of Subsection (2)(f), the division shall:
- 7824 (i) cooperate with the juvenile courts, the [~~Division of Juvenile Justice Services~~]
7825 Division of Juvenile Justice and Youth Services, and with all public and private
7826 licensed child welfare agencies and institutions to develop and administer a broad
7827 range of services and support;
- 7828 (ii) take the initiative in all matters involving the protection of abused or neglected
7829 children, if adequate provisions have not been made or are not likely to be made;
7830 and
7831 (iii) make expenditures necessary for the care and protection of the children described

- 7832 in Subsection (5)(a)(ii), within the division's budget.
- 7833 (b) If an individual is referred to a local substance abuse authority or other private or
7834 public resource for court-ordered drug screening under Subsection (2)(n), the court
7835 shall order the individual to pay all costs of the tests unless:
- 7836 (i) the cost of the drug screening is specifically funded or provided for by other
7837 federal or state programs;
- 7838 (ii) the individual is a participant in a drug court; or
- 7839 (iii) the court finds that the individual is an indigent individual.
- 7840 (6) Except to the extent provided by rules made in accordance with Title 63G, Chapter 3,
7841 Utah Administrative Rulemaking Act, the division is not required to investigate
7842 domestic violence in the presence of a child, as described in Section 76-5-114.
- 7843 (7) (a) Except as provided in Subsection (7)(b), the division may not:
- 7844 (i) require a parent who has a child in the custody of the division to pay for some or
7845 all of the cost of any drug testing the parent is required to undergo; or
- 7846 (ii) refer an individual who is receiving services from the division for drug testing by
7847 means of a hair, fingernail, or saliva test that is administered to detect the presence
7848 of drugs.
- 7849 (b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is
7850 receiving services from the division for drug testing by means of a saliva test if:
- 7851 (i) the individual consents to drug testing by means of a saliva test; or
- 7852 (ii) the court, based on a finding that a saliva test is necessary in the circumstances,
7853 orders the individual to complete drug testing by means of a saliva test.
- 7854 Section 103. Section **80-2-703** is amended to read:
- 7855 **80-2-703 (Effective 05/01/24). Conflict child protective services investigations --**
7856 **Authority of investigators.**
- 7857 (1) (a) The department, through the [~~Office of Quality and Design created in Section~~
7858 ~~62A-18-103~~] Division of Continuous Quality and Improvement, shall conduct an
7859 independent child protective service investigation to investigate reports of abuse or
7860 neglect if:
- 7861 (i) the report occurs while the child is in the custody of the division; or
- 7862 (ii) the executive director of the department determines that, if the division conducts
7863 the investigation, the division would have an actual or potential conflict of interest
7864 in the results of the investigation.
- 7865 (b) If a report is made while a child is in the custody of the division that indicates the

child is abused or neglected:

- (i) the attorney general may, in accordance with Section 67-5-16, and with the consent of the department, employ a child protective services investigator to conduct a conflict investigation of the report; or
- (ii) a law enforcement officer, as defined in Section 53-13-103, may, with the consent of the department, conduct a conflict investigation of the report.

(c) Subsection (1)(b)(ii) does not prevent a law enforcement officer from, without the consent of the department, conducting a criminal investigation of abuse or neglect under Title 53, Public Safety Code.

(2) An investigator described in Subsection (1) may also investigate allegations of abuse or neglect of a child by a department employee or a licensed substitute care provider.

(3) An investigator described in Subsection (1), if not a law enforcement officer, shall have the same rights, duties, and authority of a child welfare caseworker to:

- (a) make a thorough investigation under Section 80-2-701 upon receiving a report of alleged abuse or neglect of a child, with the primary purpose of the investigation being the protection of the child;
- (b) make an inquiry into the child's home environment, emotional, or mental health, the nature and extent of the child's injuries, and the child's physical safety;
- (c) make a written report of the investigator's investigation, including determination regarding whether the alleged abuse or neglect is supported, unsupported, or without merit, and forward a copy of the report to the division within the time mandates for investigations established by the division; and
- (d) immediately consult with school authorities to verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206 if a report is based on or includes an allegation of educational neglect.

Section 104. Section **80-2-1001** is amended to read:

80-2-1001 (Effective 05/01/24). Management Information System -- Contents -- Classification of records -- Access.

(1) The division shall develop and implement a Management Information System that meets the requirements of this section and the requirements of federal law and regulation.

(2) The Management Information System shall:

- (a) contain all key elements of each family's current child and family plan, including:
 - (i) the dates and number of times the plan has been administratively or judicially reviewed;

- 7900 (ii) the number of times the parent failed the child and family plan; and
7901 (iii) the exact length of time the child and family plan has been in effect; and
7902 (b) alert child welfare caseworkers regarding deadlines for completion of and
7903 compliance with policy, including child and family plans.
- 7904 (3) For a child welfare case, the Management Information System shall provide each child
7905 welfare caseworker and the ~~[Office of Licensing]~~ Division of Licensing and Background
7906 Checks created in Section 26B-2-103, exclusively for the purposes of foster parent
7907 licensure and monitoring, with a complete history of each child in the child welfare
7908 caseworker's caseload, including:
- 7909 (a) a record of all past action taken by the division with regard to the child and the
7910 child's siblings;
7911 (b) the complete case history and all reports and information in the control or keeping of
7912 the division regarding the child and the child's siblings;
7913 (c) the number of times the child has been in the protective custody, temporary custody,
7914 and custody of the division;
7915 (d) the cumulative period of time the child has been in the custody of the division;
7916 (e) a record of all reports of abuse or neglect received by the division with regard to the
7917 child's parent or guardian including:
7918 (i) for each report, documentation of the:
7919 (A) latest status; or
7920 (B) final outcome or determination; and
7921 (ii) information that indicates whether each report was found to be:
7922 (A) supported;
7923 (B) unsupported;
7924 (C) substantiated;
7925 (D) unsubstantiated; or
7926 (E) without merit;
- 7927 (f) the number of times the child's parent failed any child and family plan; and
7928 (g) the number of different child welfare caseworkers who have been assigned to the
7929 child in the past.
- 7930 (4) For child protective services cases, the Management Information System shall:
7931 (a) monitor the compliance of each case with:
7932 (i) division rule;
7933 (ii) state law; and

- 7934 (iii) federal law and regulation; and
- 7935 (b) include the age and date of birth of the alleged perpetrator at the time the abuse or
- 7936 neglect is alleged to have occurred, in order to ensure accuracy regarding the
- 7937 identification of the alleged perpetrator.
- 7938 (5) Information or a record contained in the Management Information System is:
- 7939 (a) a private, controlled, or protected record under Title 63G, Chapter 2, Government
- 7940 Records Access and Management Act; and
- 7941 (b) available only:
- 7942 (i) to a person or government entity with statutory authorization under Title 63G,
- 7943 Chapter 2, Government Records Access and Management Act, to review the
- 7944 information or record;
- 7945 (ii) to a person who has specific statutory authorization to access the information or
- 7946 record for the purpose of assisting the state with state or federal requirements to
- 7947 maintain information solely for the purpose of protecting minors and providing
- 7948 services to families in need;
- 7949 (iii) to the extent required by Title IV(b) or IV(e) of the Social Security Act:
- 7950 (A) to comply with abuse and neglect registry checks requested by other states; or
- 7951 (B) to the United States Department of Health and Human Services for purposes
- 7952 of maintaining an electronic national registry of supported or substantiated
- 7953 cases of abuse and neglect;
- 7954 (iv) to the department, upon the approval of the executive director of the department,
- 7955 on a need-to-know basis;
- 7956 (v) as provided in Subsection (6) or Section 80-2-1002; or
- 7957 (vi) to a citizen review panel for the purpose of fulfilling the panel's duties as
- 7958 described in Section 80-2-1101.
- 7959 (6) (a) The division may allow a division contract provider, court clerk designated by the
- 7960 Administrative Office of the Courts, the Office of Guardian Ad Litem, or Indian tribe
- 7961 to have limited access to the Management Information System.
- 7962 (b) A division contract provider or Indian tribe has access only to information about a
- 7963 person who is currently receiving services from the specific contract provider or
- 7964 Indian tribe.
- 7965 (c) A court clerk may only have access to information necessary to comply with
- 7966 Subsection 78B-7-202(2).
- 7967 (d) (i) The Office of Guardian Ad Litem may only access:

- 7968 (A) the information that is entered into the Management Information System on or
7969 after July 1, 2004, and relates to a child or family where the Office of Guardian
7970 Ad Litem is appointed by a court to represent the interests of the child; or
7971 (B) any abuse or neglect referral about a child or family where the office has been
7972 appointed by a court to represent the interests of the child, regardless of the
7973 date that the information is entered into the Management Information System.
- 7974 (ii) The division may use the information in the Management Information System to
7975 screen an individual as described in Subsection 80-2-1002(4)(b)(ii)(A) at the
7976 request of the Office of Guardian Ad Litem.
- 7977 (e) A contract provider or designated representative of the Office of Guardian Ad Litem
7978 or an Indian tribe who requests access to information contained in the Management
7979 Information System shall:
- 7980 (i) take all necessary precautions to safeguard the security of the information
7981 contained in the Management Information System;
- 7982 (ii) train its employees regarding:
- 7983 (A) requirements for protecting the information contained in the Management
7984 Information System under this chapter and under Title 63G, Chapter 2,
7985 Government Records Access and Management Act; and
- 7986 (B) the criminal penalties under Sections 63G-2-801 and 80-2-1005 for improper
7987 release of information; and
- 7988 (iii) monitor its employees to ensure that the employees protect the information
7989 contained in the Management Information System as required by law.
- 7990 (7) The division shall take:
- 7991 (a) all necessary precautions, including password protection and other appropriate and
7992 available technological techniques, to prevent unauthorized access to or release of
7993 information contained in the Management Information System; and
- 7994 (b) reasonable precautions to ensure that the division's contract providers comply with
7995 Subsection (6).
- 7996 Section 105. Section **80-2-1002** is amended to read:
- 7997 **80-2-1002 (Effective 05/01/24). Licensing Information System -- Contents --**
7998 **Classification of records -- Access -- Unlawful release -- Penalty.**
- 7999 (1) (a) The division shall maintain a sub-part of the Management Information System as
8000 the Licensing Information System to be used:
- 8001 (i) for licensing purposes; or

- 8002 (ii) as otherwise provided by law.
- 8003 (b) Notwithstanding Subsection (1)(a), the department's access to information in the
- 8004 Management Information System for the licensure and monitoring of a foster parent
- 8005 is governed by Sections 80-2-1001 and 26B-2-121.
- 8006 (2) The Licensing Information System shall include only the following information:
- 8007 (a) the name and other identifying information of the alleged perpetrator in a supported
- 8008 finding, without identifying the alleged perpetrator as a perpetrator or alleged
- 8009 perpetrator;
- 8010 (b) a notation to the effect that an investigation regarding the alleged perpetrator
- 8011 described in Subsection (2)(a) is pending;
- 8012 (c) the information described in Subsection (3);
- 8013 (d) consented-to supported findings by an alleged perpetrator under Subsection 80-2-708
- 8014 (3)(a)(iii);
- 8015 (e) a finding from the juvenile court under Section 80-3-404; and
- 8016 (f) the information in the licensing part of the division's Management Information
- 8017 System as of May 6, 2002.
- 8018 (3) Subject to Section 80-2-1003, upon receipt of a finding from the juvenile court under
- 8019 Section 80-3-404, the division shall:
- 8020 (a) promptly amend the Licensing Information System to include the finding; and
- 8021 (b) enter the finding in the Management Information System.
- 8022 (4) Information or a record contained in the Licensing Information System is:
- 8023 (a) a protected record under Title 63G, Chapter 2, Government Records Access and
- 8024 Management Act; and
- 8025 (b) notwithstanding Title 63G, Chapter 2, Government Records Access and
- 8026 Management Act, accessible only:
- 8027 (i) to the [~~Office of Licensing~~] Division of Licensing and Background Checks created
- 8028 in Section 26B-2-103:
- 8029 (A) for licensing purposes; or
- 8030 (B) as otherwise specifically provided for by law;
- 8031 (ii) to the division to:
- 8032 (A) screen an individual at the request of the Office of Guardian Ad Litem at the
- 8033 time the individual seeks a paid or voluntary position with the Office of
- 8034 Guardian Ad Litem and annually throughout the time that the individual
- 8035 remains with the Office of Guardian Ad Litem; and

- 8036 (B) respond to a request for information from an individual whose name is listed
8037 in the Licensing Information System;
- 8038 (iii) to a person designated by the Department of Health and Human Services, only
8039 for the following purposes:
- 8040 (A) licensing a child care program or provider;
- 8041 (B) determining whether an individual associated with a child care facility,
8042 program, or provider, who is exempt from being licensed or certified by the
8043 Department of Health and Human Services under Title 26B, Chapter 2, Part 4,
8044 Child Care Licensing, has a supported finding of a severe type of child abuse
8045 or neglect; or
- 8046 (C) determining whether an individual who is seeking an emergency medical
8047 services license has a supported finding of a severe type of child abuse or
8048 neglect;
- 8049 (iv) to a person designated by the Department of Workforce Services and approved
8050 by the Department of Health and Human Services for the purpose of qualifying a
8051 child care provider under Section 35A-3-310.5;
- 8052 (v) as provided in Section 26B-2-121; or
- 8053 (vi) to the department or another person, as provided in this chapter.
- 8054 (5) A person designated by the Department of Health and Human Services or the
8055 Department of Workforce Services under Subsection (4) shall adopt measures to:
- 8056 (a) protect the security of the Licensing Information System; and
- 8057 (b) strictly limit access to the Licensing Information System to persons allowed access
8058 by statute.
- 8059 (6) The department shall approve a person allowed access by statute to information or a
8060 record contained in the Licensing Information System and provide training to the person
8061 with respect to:
- 8062 (a) accessing the Licensing Information System;
- 8063 (b) maintaining strict security; and
- 8064 (c) the criminal provisions of Sections 63G-2-801 and 80-2-1005 pertaining to the
8065 improper release of information.
- 8066 (7) (a) Except as authorized by this chapter, a person may not request another person to
8067 obtain or release any other information in the Licensing Information System to screen
8068 for potential perpetrators of abuse or neglect.
- 8069 (b) A person who requests information knowing that the request is a violation of this

8070 Subsection (7) is subject to the criminal penalties described in Sections 63G-2-801
8071 and 80-2-1005.

8072 Section 106. Section **80-3-409** is amended to read:

8073 **80-3-409 (Effective 05/01/24). Permanency hearing -- Final plan -- Petition for**
8074 **termination of parental rights filed -- Hearing on termination of parental rights.**

8075 (1) (a) If reunification services are ordered under Section 80-3-406, with regard to a
8076 minor who is in the custody of the division, the juvenile court shall hold a
8077 permanency hearing no later than 12 months after the day on which the minor is
8078 initially removed from the minor's home.

8079 (b) If reunification services are not ordered at the dispositional hearing, the juvenile
8080 court shall hold a permanency hearing within 30 days after the day on which the
8081 dispositional hearing ends.

8082 (2) (a) If reunification services are ordered in accordance with Section 80-3-406, the
8083 juvenile court shall, at the permanency hearing, determine, consistent with
8084 Subsection (3), whether the minor may safely be returned to the custody of the
8085 minor's parent.

8086 (b) If the juvenile court finds, by a preponderance of the evidence, that return of the
8087 minor to the minor's parent would create a substantial risk of detriment to the minor's
8088 physical or emotional well-being, the minor may not be returned to the custody of the
8089 minor's parent.

8090 (c) Prima facie evidence that return of the minor to a parent or guardian would create a
8091 substantial risk of detriment to the minor is established if:

8092 (i) the parent or guardian fails to:

8093 (A) participate in a court approved child and family plan;

8094 (B) comply with a court approved child and family plan in whole or in part; or

8095 (C) meet the goals of a court approved child and family plan; or

8096 (ii) the minor's natural parent:

8097 (A) intentionally, knowingly, or recklessly causes the death of another parent of
8098 the minor;

8099 (B) is identified by a law enforcement agency as the primary suspect in an
8100 investigation for intentionally, knowingly, or recklessly causing the death of
8101 another parent of the minor; or

8102 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
8103 recklessly causing the death of another parent of the minor.

- 8104 (3) In making a determination under Subsection (2)(a), the juvenile court shall:
8105 (a) review and consider:
8106 (i) the report prepared by the division;
8107 (ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered
8108 by the minor's attorney guardian ad litem;
8109 (iii) any report submitted by the division under Subsection 80-3-408(3)(a)(i);
8110 (iv) any evidence regarding the efforts or progress demonstrated by the parent; and
8111 (v) the extent to which the parent cooperated and used the services provided; and
8112 (b) attempt to keep the minor's sibling group together if keeping the sibling group
8113 together is:
8114 (i) practicable; and
8115 (ii) in accordance with the best interest of the minor.
- 8116 (4) With regard to a case where reunification services are ordered by the juvenile court, if a
8117 minor is not returned to the minor's parent or guardian at the permanency hearing, the
8118 juvenile court shall, unless the time for the provision of reunification services is
8119 extended under Subsection (7):
8120 (a) order termination of reunification services to the parent;
8121 (b) make a final determination regarding whether termination of parental rights,
8122 adoption, or permanent custody and guardianship is the most appropriate final plan
8123 for the minor, taking into account the minor's primary permanency plan established
8124 by the juvenile court under Section 80-3-406; and
8125 (c) in accordance with Subsection 80-3-406(2), establish a concurrent permanency plan
8126 that identifies the second most appropriate final plan for the minor, if appropriate.
- 8127 (5) The juvenile court may order another planned permanent living arrangement other than
8128 reunification for a minor who is 16 years old or older upon entering the following
8129 findings:
8130 (a) the division has documented intensive, ongoing, and unsuccessful efforts to reunify
8131 the minor with the minor's parent or parents, or to secure a placement for the minor
8132 with a guardian, an adoptive parent, or an individual described in Subsection 80-3-301
8133 (6)(e);
8134 (b) the division has demonstrated that the division has made efforts to normalize the life
8135 of the minor while in the division's custody, in accordance with Section 80-2-308;
8136 (c) the minor prefers another planned permanent living arrangement; and
8137 (d) there is a compelling reason why reunification or a placement described in

- 8138 Subsection (5)(a) is not in the minor's best interest.
- 8139 (6) Except as provided in Subsection (7), the juvenile court may not extend reunification
8140 services beyond 12 months after the day on which the minor is initially removed from
8141 the minor's home, in accordance with the provisions of Section 80-3-406.
- 8142 (7) (a) Subject to Subsection (7)(b), the juvenile court may extend reunification services
8143 for no more than 90 days if the juvenile court finds, [~~beyond~~] by a preponderance of
8144 the evidence, that:
- 8145 (i) there has been substantial compliance with the child and family plan;
8146 (ii) reunification is probable within that 90-day period; and
8147 (iii) the extension is in the best interest of the minor.
- 8148 (b) (i) Except as provided in Subsection (7)(c), the juvenile court may not extend any
8149 reunification services beyond 15 months after the day on which the minor is
8150 initially removed from the minor's home.
8151 (ii) Delay or failure of a parent to establish paternity or seek custody does not provide
8152 a basis for the juvenile court to extend services for the parent beyond the
8153 12-month period described in Subsection (6).
- 8154 (c) In accordance with Subsection (7)(d), the juvenile court may extend reunification
8155 services for one additional 90-day period, beyond the 90-day period described in
8156 Subsection (7)(a), if:
- 8157 (i) the juvenile court finds, by clear and convincing evidence, that:
8158 (A) the parent has substantially complied with the child and family plan;
8159 (B) it is likely that reunification will occur within the additional 90-day period; and
8160 (C) the extension is in the best interest of the minor;
8161 (ii) the juvenile court specifies the facts upon which the findings described in
8162 Subsection (7)(c)(i) are based; and
8163 (iii) the juvenile court specifies the time period in which it is likely that reunification
8164 will occur.
- 8165 (d) A juvenile court may not extend the time period for reunification services without
8166 complying with the requirements of this Subsection (7) before the extension.
- 8167 (e) In determining whether to extend reunification services for a minor, a juvenile court
8168 shall take into consideration the status of the minor siblings of the minor.
- 8169 (8) (a) At the permanency hearing, if a child remains in an out-of-home placement, the
8170 juvenile court shall:
- 8171 (i) make specific findings regarding the conditions of parent-time that are in the

- 8172 child's best interest; and
- 8173 (ii) if parent-time is denied, state the facts that justify the denial.
- 8174 (b) Parent-time shall be under the least restrictive conditions necessary to:
- 8175 (i) protect the physical safety of the child; or
- 8176 (ii) prevent the child from being traumatized by contact with the parent due to the
- 8177 child's fear of the parent in light of the nature of the alleged abuse or neglect.
- 8178 (c) (i) The division or the person designated by the division or a court to supervise a
- 8179 parent-time session may deny parent-time for the session if the division or the
- 8180 supervising person determines that, based on the parent's condition, it is necessary
- 8181 to deny parent-time to:
- 8182 (A) protect the physical safety of the child;
- 8183 (B) protect the life of the child; or
- 8184 (C) consistent with Subsection (8)(c)(ii), prevent the child from being traumatized
- 8185 by contact with the parent.
- 8186 (ii) In determining whether the condition of the parent described in Subsection
- 8187 (8)(c)(i) will traumatize a child, the division or the person supervising the
- 8188 parent-time session shall consider the impact that the parent's condition will have
- 8189 on the child in light of:
- 8190 (A) the child's fear of the parent; and
- 8191 (B) the nature of the alleged abuse or neglect.
- 8192 (9) The juvenile court may, in the juvenile court's discretion:
- 8193 (a) enter any additional order that the juvenile court determines to be in the best interest
- 8194 of the minor, so long as that order does not conflict with the requirements and
- 8195 provisions of Subsections (4) through (8); or
- 8196 (b) order the division to provide protective supervision or other services to a minor and
- 8197 the minor's family after the division's custody of a minor is terminated.
- 8198 (10) (a) If the final plan for the minor is to proceed toward termination of parental rights,
- 8199 the petition for termination of parental rights shall be filed, and a pretrial held, within
- 8200 45 calendar days after the day on which the permanency hearing is held.
- 8201 (b) If the division opposes the plan to terminate parental rights, the juvenile court may
- 8202 not require the division to file a petition for the termination of parental rights, except
- 8203 as required under Subsection 80-4-203(2).
- 8204 (11) (a) Any party to an action may, at any time, petition the juvenile court for an
- 8205 expedited permanency hearing on the basis that continuation of reunification efforts

- 8206 are inconsistent with the permanency needs of the minor.
- 8207 (b) If the juvenile court so determines, the juvenile court shall order, in accordance with
- 8208 federal law, that:
- 8209 (i) the minor be placed in accordance with the permanency plan; and
- 8210 (ii) whatever steps are necessary to finalize the permanent placement of the minor be
- 8211 completed as quickly as possible.
- 8212 (12) Nothing in this section may be construed to:
- 8213 (a) entitle any parent to reunification services for any specified period of time;
- 8214 (b) limit a juvenile court's ability to terminate reunification services at any time before a
- 8215 permanency hearing; or
- 8216 (c) limit or prohibit the filing of a petition for termination of parental rights by any party,
- 8217 or a hearing on termination of parental rights, at any time before a permanency
- 8218 hearing provided that relative placement and custody options have been fairly
- 8219 considered in accordance with Sections 80-2a-201 and 80-4-104.
- 8220 (13) (a) Subject to Subsection (13)(b), if a petition for termination of parental rights is
- 8221 filed before the date scheduled for a permanency hearing, the juvenile court may
- 8222 consolidate the hearing on termination of parental rights with the permanency hearing.
- 8223 (b) For purposes of Subsection (13)(a), if the juvenile court consolidates the hearing on
- 8224 termination of parental rights with the permanency hearing:
- 8225 (i) the juvenile court shall first make a finding regarding whether reasonable efforts
- 8226 have been made by the division to finalize the permanency plan for the minor; and
- 8227 (ii) any reunification services shall be terminated in accordance with the time lines
- 8228 described in Section 80-3-406.
- 8229 (c) The juvenile court shall make a decision on a petition for termination of parental
- 8230 rights within 18 months after the day on which the minor is initially removed from
- 8231 the minor's home.
- 8232 (14) (a) If a juvenile court determines that a minor will not be returned to a parent of the
- 8233 minor, the juvenile court shall consider appropriate placement options inside and
- 8234 outside of the state.
- 8235 (b) In considering appropriate placement options under Subsection (14)(a), the juvenile
- 8236 court shall provide preferential consideration to a relative's request for placement of
- 8237 the minor.
- 8238 (15) (a) In accordance with Section 80-3-108, if a minor 14 years old or older desires an
- 8239 opportunity to address the juvenile court or testify regarding permanency or

8240 placement, the juvenile court shall give the minor's wishes added weight, but may not
8241 treat the minor's wishes as the single controlling factor under this section.

8242 (b) If the juvenile court's decision under this section differs from a minor's express
8243 wishes if the minor is of sufficient maturity to articulate the wishes in relation to
8244 permanency or the minor's placement, the juvenile court shall make findings
8245 explaining why the juvenile court's decision differs from the minor's wishes.

8246 (16) (a) If, for a relative placement, an interstate placement requested under the
8247 Interstate Compact on the Placement of Children has been initiated by the division or
8248 is ordered by or pending before the juvenile court, the court may not finalize a
8249 non-relative placement unless the court gives due weight to:

8250 (i) the preferential consideration granted to a relative in Section 80-3-302;
8251 (ii) the rebuttable presumption in Section 80-3-302; and
8252 (iii) the division's placement authority under Subsections 80-1-102(50) and 80-3-303
8253 (1).

8254 (b) Nothing in this section affects the ability of a foster parent to petition the juvenile
8255 court under Subsection 80-3-502(3).

8256 Section 107. Section **80-5-102** is amended to read:

8257 **80-5-102 (Effective 05/01/24). Definitions.**

8258 As used in this chapter:

8259 (1) "Account" means the Juvenile Justice Reinvestment Restricted Account created in
8260 Section 80-5-302.

8261 (2) (a) "Adult" means an individual who is 18 years old or older.

8262 (b) "Adult" does not include a juvenile offender.

8263 (3) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R.
8264 1351.1.

8265 (4) "Authority" means the Youth Parole Authority created in Section 80-5-701.

8266 (5) "Control" means the authority to detain, restrict, and supervise a juvenile offender in a
8267 manner consistent with public safety and the well-being of the juvenile offender and
8268 division employees.

8269 (6) "Director" means the director of the [~~Division of Juvenile Justice Services~~] Division of
8270 Juvenile Justice and Youth Services.

8271 (7) "Discharge" means the same as that term is defined in Section 80-6-102.

8272 (8) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice
8273 and Youth Services created in Section 80-5-103.

- 8274 (9) "Homeless youth" means a child, other than an emancipated minor:
8275 (a) who is a runaway; or
8276 (b) who is:
8277 (i) not accompanied by the child's parent or guardian; and
8278 (ii) without care, as defined in Section 80-5-602.
- 8279 (10) "Observation and assessment program" means a nonresidential service program
8280 operated or purchased by the division that is responsible only for diagnostic assessment
8281 of minors, including for substance use disorder, mental health, psychological, and sexual
8282 behavior risk assessments.
- 8283 (11) "Performance based contracting" means a system of contracting with service providers
8284 for the provision of residential or nonresidential services that:
8285 (a) provides incentives for the implementation of evidence-based juvenile justice
8286 programs or programs rated as effective for reducing recidivism by a standardized
8287 tool in accordance with Section 63M-7-208; and
8288 (b) provides a premium rate allocation for a minor who receives the evidence-based
8289 dosage of treatment and successfully completes the program within three months.
- 8290 (12) "Rescission" means the same as that term is defined in Section 80-6-102.
- 8291 (13) "Restitution" means the same as that term is defined in Section 80-6-102.
- 8292 (14) "Revocation" means the same as that term is defined in Section 80-6-102.
- 8293 (15) "Temporary custody" means the same as that term is defined in Section 80-6-102.
- 8294 (16) "Temporary homeless youth shelter" means a facility that:
8295 (a) provides temporary shelter to homeless youth; and
8296 (b) is licensed by the Department of Health and Human Services, created in Section
8297 26B-1-201, as a residential support program.
- 8298 (17) "Termination" means the same as that term is defined in Section 80-6-102.
- 8299 (18) "Victim" means the same as that term is defined in Section 80-6-102.
- 8300 (19) "Work program" means a nonresidential public or private service work project
8301 established and administered by the division for juvenile offenders for the purpose of
8302 rehabilitation, education, and restitution to victims.
- 8303 (20) (a) "Youth services" means services provided in an effort to resolve family conflict:
8304 (i) for families in crisis when a minor is ungovernable or a runaway; or
8305 (ii) involving a minor and the minor's parent or guardian.
8306 (b) "Youth services" include efforts to:
8307 (i) resolve family conflict;

- 8308 (ii) maintain or reunite minors with the minors' families; and
8309 (iii) divert minors from entering or escalating in the juvenile justice system.
- 8310 (c) "Youth services" may provide:
8311 (i) crisis intervention;
8312 (ii) short-term shelter;
8313 (iii) time-out placement; and
8314 (iv) family counseling.
- 8315 (21) "Youth services center" means a center established by, or under contract with, the
8316 division to provide youth services.
- 8317 Section 108. Section **80-5-103** is amended to read:
8318 **80-5-103 (Effective 05/01/24). Creation of division -- Jurisdiction.**
- 8319 (1) There is created the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice
8320 and Youth Services within the department.
- 8321 (2) The division shall be under the administration and supervision of the executive director
8322 of the department.
- 8323 (3) The division has jurisdiction over all minors committed to the division under Sections
8324 80-6-703 and 80-6-705.
- 8325 Section 109. Section **80-5-401** is amended to read:
8326 **80-5-401 (Effective 05/01/24). Youth services for prevention and early**
8327 **intervention -- Program standards -- Program services.**
- 8328 (1) The division shall establish and operate prevention and early intervention youth services
8329 programs which shall include evidence-informed and research-informed interventions to:
8330 (a) help youth and families avoid entry into the juvenile justice system; and
8331 (b) improve attendance and academic achievement.
- 8332 (2) The division shall adopt statewide policies and procedures, including minimum
8333 standards for the organization and operation of youth services programs.
- 8334 (3) The division shall establish housing, programs, and procedures to ensure that minors
8335 who are receiving services under this section and who are not committed to the division
8336 are served separately from minors who are committed to the division.
- 8337 (4) The division may enter into contracts with state and local governmental entities and
8338 private providers to provide the youth services.
- 8339 (5) The division shall establish and administer juvenile receiving centers and other
8340 programs to provide temporary custody, care, risk-needs assessments, evaluations, and
8341 control for nonadjudicated and adjudicated minors placed with the division.

- 8342 (6) The division shall prioritize use of evidence-based juvenile justice programs and
8343 practices.
- 8344 (7) Youth receiving services under this section or from the division may not be placed into
8345 the legal custody of the division unless the youth qualifies for such disposition under
8346 Section 80-6-703.
- 8347 Section 110. Section **80-6-102** is amended to read:
- 8348 **80-6-102 (Effective 05/01/24). Definitions.**
- 8349 As used in this chapter:
- 8350 (1) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R.
8351 1351.1.
- 8352 (2) "Authority" means the Youth Parole Authority created in Section 80-5-701.
- 8353 (3) "Commission" means the State Commission on Criminal and Juvenile Justice created in
8354 Section 63M-7-201.
- 8355 (4) "Compensatory service" means service or unpaid work performed by a minor in lieu of
8356 the payment of a fine, fee, or restitution.
- 8357 (5) "Control" means the same as that term is defined in Section 80-5-102.
- 8358 (6) "Detention hearing" means a proceeding under Section 80-6-207 to determine whether a
8359 minor should remain in detention.
- 8360 (7) "Detention guidelines" means standards, established by the division in accordance with
8361 Subsection 80-5-202(1)(a), for the admission of a minor to detention.
- 8362 (8) "Discharge" means a written order of the authority that removes a juvenile offender
8363 from the authority's jurisdiction.
- 8364 (9) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice
8365 and Youth Services created in Section 80-5-103.
- 8366 (10) "Family-based setting" means a home that is licensed to allow a minor to reside at the
8367 home, including a foster home, proctor care, or residential care by a professional parent.
- 8368 (11) "Formal referral" means a written report from a peace officer, or other person,
8369 informing the juvenile court that:
- 8370 (a) an offense committed by a minor is, or appears to be, within the juvenile court's
8371 jurisdiction; and
- 8372 (b) the minor's case must be reviewed by a juvenile probation officer or a prosecuting
8373 attorney.
- 8374 (12) "Material loss" means an uninsured:
- 8375 (a) property loss;

- 8376 (b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;
8377 (c) lost wages because of an injury, time spent as a witness, or time spent assisting the
8378 police or prosecution; or
8379 (d) medical expense.
- 8380 (13) "Referral" means a formal referral, a referral to the juvenile court under Section
8381 53G-8-211, or a citation issued to a minor for which the juvenile court receives notice
8382 under Section 80-6-302.
- 8383 (14) "Rescission" means a written order of the authority that rescinds a date for parole.
- 8384 (15) "Restitution" means money or services that the juvenile court, or a juvenile probation
8385 officer if the minor agrees to a nonjudicial adjustment, orders a minor to pay or render to
8386 a victim for the minor's wrongful act or conduct.
- 8387 (16) "Revocation" means a written order of the authority that, after a hearing and
8388 determination under Section 80-6-806:
8389 (a) terminates supervision of a juvenile offender's parole; and
8390 (b) directs a juvenile offender to return to secure care.
- 8391 (17) "Temporary custody" means the control and responsibility of a minor, before an
8392 adjudication under Section 80-6-701, until the minor is released to a parent, guardian,
8393 responsible adult, or to an appropriate agency.
- 8394 (18) "Termination" means a written order of the authority that terminates a juvenile
8395 offender from parole.
- 8396 (19) (a) "Victim" means a person that the juvenile court determines suffered a material
8397 loss as a result of a minor's wrongful act or conduct.
8398 (b) "Victim" includes:
8399 (i) any person directly harmed by the minor's wrongful act or conduct in the course of
8400 the scheme, conspiracy, or pattern if the minor's wrongful act or conduct is an
8401 offense that involves an element of a scheme, a conspiracy, or a pattern of
8402 criminal activity; and
8403 (ii) the Utah Office for Victims of Crime.
- 8404 (20) "Violent felony" means the same as that term is defined in Section 76-3-203.5.
- 8405 (21) "Work program" means the same as that term is defined in Section 80-5-102.
- 8406 (22) "Youth services" means the same as that term is defined in Section 80-5-102.
- 8407 Section 111. **Effective date.**
- 8408 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.
- 8409 (2) The actions affecting the following sections take effect on July 1, 2024:

- 8410 (a) Section 26B-1-204 (Effective 07/01/24);
8411 (b) Section 26B-2-241 (Effective 07/01/24);
8412 (c) Section 53-2d-404 (Effective 07/01/24);
8413 (d) Section 53-2d-503 (Effective 07/01/24);
8414 (e) Section 53-2d-703 (Effective 07/01/24); and
8415 (f) Section 77-41-102 (Effective 07/01/24).