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# **EVIDENCE RETENTION AMENDMENTS** 2024 GENERAL SESSION STATE OF UTAH **Chief Sponsor: Wayne A. Harper**

### House Sponsor: Ken Ivory

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2 3	LONG TITLE
4	General Description:
5	This bill amends provisions related to the retention and disposal of evidence of an offense.
6	Highlighted Provisions:
7	This bill:
8	<ul> <li>clarifies the requirements for disposing of wildlife seized by the Division of Wildlife</li> </ul>
9	Resources;
10	<ul> <li>amends the time period for retaining evidence of a felony offense;</li> </ul>
11	<ul> <li>clarifies that the time period requirements do not require an agency to return or dispose</li> </ul>
12	of evidence of a felony offense;
13	<ul> <li>provides that an agency is not required to retain evidence of a felony offense in certain</li> </ul>
14	circumstances;
15	<ul> <li>provides the requirements for an agency seeking to no longer retain evidence of a felony</li> </ul>
16	offense;
17	<ul> <li>amends the time period for retaining biological evidence of a violent felony offense;</li> </ul>
18	<ul> <li>amends the notification requirements regarding the retention of biological evidence of a</li> </ul>
19	violent felony offense; and
20	<ul> <li>makes technical and conforming changes.</li> </ul>
21	Money Appropriated in this Bill:
22	None
23	Other Special Clauses:
24	None
25	Utah Code Sections Affected:
26	AMENDS:
27	23A-5-201, as last amended by Laws of Utah 2023, Chapter 448 and renumbered and

28	amended by Laws of Utah 2023, Chapter 103
29	77-11a-204, as renumbered and amended by Laws of Utah 2023, Chapter 448
30	77-11a-205, as renumbered and amended by Laws of Utah 2023, Chapter 448
31	77-11a-301, as renumbered and amended by Laws of Utah 2023, Chapter 448
32	77-11a-302, as enacted by Laws of Utah 2023, Chapter 448
33	77-11a-303, as enacted by Laws of Utah 2023, Chapter 448
34	77-11a-305, as renumbered and amended by Laws of Utah 2023, Chapter 448
35	77-11c-103, as enacted by Laws of Utah 2023, Chapter 448
36	77-11c-202, as enacted by Laws of Utah 2023, Chapter 448
37	77-11c-203, as enacted by Laws of Utah 2023, Chapter 448
38	77-11c-301, as renumbered and amended by Laws of Utah 2023, Chapter 448
39	77-11c-401, as renumbered and amended by Laws of Utah 2023, Chapter 448
40	ENACTS:
41	77-11c-302, Utah Code Annotated 1953
42	77-11c-303, Utah Code Annotated 1953
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44	Be it enacted by the Legislature of the state of Utah:
45	Section 1. Section <b>23A-5-201</b> is amended to read:
46	23A-5-201 . Enforcement authority of conservation officers Seizure and
47	disposition of property.
48	(1) A conservation officer shall enforce the provisions of this title in accordance with the
49	same procedures and requirements for a law enforcement officer of this state.
50	(2) (a) Except as provided in Subsection (2)(b), a conservation officer may seize
51	property or contraband in accordance with Title 77, Chapter 11a, Seizure of Property
52	and Contraband, and Title 77, Chapter 11b, Forfeiture of Seized Property.
53	(b) A conservation officer shall seize protected wildlife illegally taken or held.
54	(3) (a) If a conservation officer seizes wildlife as part of an investigation or prosecution
55	of an offense and the wildlife may reasonably be used to incriminate or exculpate a
56	person for the offense, the division is not required to retain the wildlife under Title
57	77, Chapter 11c, Retention of Evidence.
58	(b) If the division does not retain wildlife under Subsection (3)(a), the division is
59	required to preserve sufficient evidence from the wildlife for use as evidence in the
60	prosecution of a person for the offense.
61	(4) (a) If a conservation officer seizes wildlife and the wildlife or parts of the wildlife are

62	perishable, the division may donate the wildlife or parts of the wildlife to be used for
63	charitable purposes.
64	(b) If wildlife or parts of the wildlife are perishable and are not fit to be donated for
65	charitable purposes under Subsection (4)(a), the division may dispose of the wildlife
66	or parts of the wildlife in a reasonable manner.
67	[(5) (a) The court may order the division to sell or dispose of protected wildlife that is
68	seized by a conservation officer if the division is permitted by law to sell or dispose of
69	the wildlife.]
70	(5) (a) If a defendant is convicted of the offense for which protected wildlife is seized
71	and the division is permitted by law to sell or dispose of the protected wildlife, the
72	division may sell or dispose of the protected wildlife or part of the wildlife.
73	(b) The division may not sell migratory wildfowl but the division shall donate the
74	migratory wildfowl to be used for charitable purposes.
75	(c) The division shall deposit the proceeds from the sale of protected wildlife into the
76	Wildlife Resources Account.
77	(6) If the division disposes of wildlife and the defendant is acquitted of the offense for
78	which the wildlife is seized or the entire case for the offense is dismissed, the court may
79	order the division to:
80	(a) provide the owner of the disposed wildlife with wildlife that is reasonably equivalent
81	in value to the disposed wildlife within 180 days after the day on which the court
82	enters the order; or
83	(b) if the division is unable to obtain wildlife that is reasonably equivalent in value to the
84	disposed wildlife, pay the owner of the disposed wildlife for the non-trophy value of
85	the disposed wildlife in accordance with Subsection 23A-5-312(2) within 180 days
86	after the day on which the court enters the order.
87	(7) (a) If a conservation officer seizes a vehicle under Section 77-11a-201, the division
88	shall store the seized vehicle in a public or private garage, state impound lot, or any
89	other secured storage facility.
90	(b) The division shall release a seized vehicle to the owner no later than 30 days after the
91	day on which the vehicle is seized, unless the vehicle was used for the unlawful
92	taking or possessing of wildlife by a person charged with a felony under this title.
93	(c) The owner of a seized vehicle is liable for the payment of any impound fee if:
94	(i) the owner used the vehicle for the unlawful taking or possessing of wildlife; and
95	(ii) the owner is convicted of an offense under this title.

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96	(d) The owner of a seized vehicle is not liable for the payment of any impound fee or, if
97	the fees have been paid, is entitled to reimbursement of the fees paid, if:
98	(i) no charges are filed or all charges are dropped that involve the use of the vehicle
99	for the unlawful taking or possessing of wildlife;
100	(ii) the person charged with using the vehicle for the unlawful taking or possessing of
101	wildlife is found by a court to be not guilty; or
102	(iii) the owner did not consent to a use of the vehicle that violates this chapter.
103	Section 2. Section <b>77-11a-204</b> is amended to read:
104	77-11a-204 . Custody of seized property and contraband.
105	(1) An agency with custody of seized property or contraband shall:
106	(a) hold the property or contraband in safe custody until the property or contraband is [
107	released] returned or disposed of in accordance with:
108	(i) this chapter; and
109	(ii) Chapter 11c, Retention of Evidence; and
110	(b) maintain a record of the property or contraband, including:
111	(i) a detailed inventory of all property or contraband seized;
112	(ii) the name of the person from which the property or contraband was seized; and
113	(iii) the agency's case number.
114	(2) (a) Except as provided in Subsection (2)(b), no later than 30 days after the day on
115	which a peace officer seizes property in the form of cash or other readily negotiable
116	instruments, an agency shall deposit the property into a separate, restricted,
117	interest-bearing account maintained by the agency solely for the purpose of managing
118	and protecting the property from commingling, loss, or devaluation.
119	(b) A prosecuting attorney may authorize one or more written extensions of the 30-day
120	period under Subsection (2)(a) if the property needs to maintain the form in which
121	the property was seized for evidentiary purposes or other good cause.
122	(3) An agency shall:
123	(a) have written policies for the identification, tracking, management, and safekeeping of
124	seized property and contraband; and
125	(b) shall have a written policy that prohibits the transfer, sale, or auction of seized
126	property and contraband to an employee of the agency.
127	Section 3. Section 77-11a-205 is amended to read:
128	77-11a-205 . Transfer or release of seized property to another governmental
129	entity Requirements.

130	(1) Except as provided in Subsections (3)(a) through (c), upon the seizure of property by a
131	peace officer, the property is subject to the exclusive jurisdiction of a district court of
132	this state.
133	(2) Except as provided in Subsection (3), a peace officer, agency, or prosecuting attorney
134	may not directly or indirectly transfer or release seized property to a federal agency or to
135	a governmental entity not created or subject to the laws of this state.
136	(3) An agency or prosecuting attorney may transfer or release seized property to a federal
137	agency or to a governmental entity not created or subject to the laws of this state if:
138	(a) (i) the property is cash or another readily negotiable instrument; and
139	(ii) the property is evidence in, or subject to, a federal criminal indictment, a federal
140	criminal information, or a federal criminal complaint that is filed before the
141	property is seized;
142	(b) (i) the property is not cash or another readily negotiable instrument; and
143	(ii) the property is evidence in, or subject to, a federal criminal indictment, a federal
144	criminal information, or a federal criminal complaint that is filed before the day
145	on which the agency with custody of the property is required to return the property
146	if no criminal or civil action is filed by the prosecuting attorney or a federal
147	prosecutor in accordance with Section 77-11b-203;
148	(c) (i) the property was used in the commission of an offense in another state; and
149	(ii) an agency of that state requests the transfer of the property before the day on
150	which the agency with custody of the property is required to return the property if
151	no criminal or civil action is filed by the prosecuting attorney or a federal
152	prosecutor in accordance with Section 77-11b-203; or
153	(d) a district court authorizes, in accordance with Subsection (5), the transfer or release
154	of the property to an agency of another state or a federal agency upon a petition by a
155	prosecuting attorney or a federal prosecutor.
156	(4) (a) A prosecuting attorney, or a federal prosecutor, may file a petition in the district
157	court for the transfer or release of seized property.
158	(b) If a prosecuting attorney, or a federal prosecutor, files a petition under Subsection
159	(4)(a), the petition shall include:
160	(i) a detailed description of the property seized;
161	(ii) the location where the property was seized;
162	(iii) the date the property was seized;
163	(iv) the case number assigned by the agency; and

164	(v) a declaration that:
165	(A) states the basis for relinquishing jurisdiction to a federal agency or an agency
166	of another state;
167	(B) contains the names and addresses of any known claimant; and
168	(C) is signed by the prosecuting attorney or federal prosecutor.
169	(5) A district court may not authorize the transfer or release of seized property under
170	Subsection (3)(d), unless the district court finds, by a preponderance of the evidence:
171	(a) the property is evidence in, or subject to, a federal criminal indictment, a federal
172	criminal information, or a federal criminal complaint after the property is seized;
173	(b) the property may only be forfeited under federal law;
174	(c) forfeiting the property under state law would unreasonably burden the prosecuting
175	attorney or agency; or
176	(d) the property was subject to a federal criminal investigation before the property was
177	seized.
178	(6) (a) Before a district court may order the transfer of seized property in accordance
179	with this section, the court, the prosecuting attorney, or the federal prosecutor shall
180	mail a notice to:
181	(i) each address contained in the declaration under Subsection $(4)(b)(v)$ to give a
182	claimant the right to be heard with regard to the transfer; and
183	(ii) (A) if a federal prosecutor files the petition under Subsection (4), the
184	prosecuting attorney that is representing the agency with custody of the
185	property; or
186	(B) if a prosecuting attorney files the petition under Subsection (4), the federal
187	prosecutor who will receive the property upon the transfer or release of the
188	property.
189	(b) If a claimant, or the party under Subsection (6)(a)(i), does not object to the petition to
190	transfer the property within 10 days after the day on which the notice is mailed, the
191	district court shall issue the district court's order in accordance with this section.
192	(c) If the declaration does not include an address for a claimant, the district court shall
193	delay the district court's order under this section for 20 days to allow time for the
194	claimant to appear and make an objection.
195	(d) (i) If a claimant, or a party under Subsection (6)(a)(i), contests a petition to
196	transfer the property to a federal agency or to another governmental entity not
197	created or subject to the laws of this state, the district court shall promptly set the

198	matter for hearing.
199	(ii) In making a determination under Subsection (5), the district court shall consider
200	evidence regarding hardship, complexity, judicial and law enforcement resources,
201	protections afforded under state and federal law, pending state or federal
202	investigations, and any other relevant matter.
203	(7) If an agency receives property, money, or other things of value under a federal law that
204	authorizes the sharing or transfer of all or a portion of forfeited property, or the proceeds
205	from the sale of forfeited property, the agency:
206	(a) shall use the property, money, or other things of value in compliance with federal
207	laws and regulations relating to equitable sharing;
208	(b) may use the property, money, or other things of value for a law enforcement purpose
209	described in Subsection 77-11b-403(10); and
210	(c) may not use the property, money, or other thing of value for a law enforcement
211	purpose prohibited in Subsection 77-11b-403(11).
212	(8) An agency awarded an equitable share of property forfeited by the federal government
213	may use the award money only after approval of the use by the agency's legislative body.
214	(9) If a district court exercises exclusive jurisdiction over seized property, the district
215	court's exclusive jurisdiction is terminated if [the property is released by the agency with
216	custody of the property] the agency with custody of the property returns the property to a
217	claimant under:
218	(a) [Part 3, Release of Seized Property to Claimant] Part 3, Return of Seized Property to
219	<u>Claimant;</u> or
220	(b) Section 77-11b-203.
221	Section 4. Section <b>77-11a-301</b> is amended to read:
222	Part 3. Return of Seized Property to Claimant
223	77-11a-301 . Return of seized property to claimant Generally.
224	(1) (a) An agency with custody of seized property, or the prosecuting attorney, may [
225	release] return the property to a claimant if the agency or the prosecuting attorney:
226	(i) determines that the agency does not need to retain or preserve the property as
227	evidence under Chapter 11c, Retention of Evidence; or
228	(ii) seeks to return the property to the claimant because the agency or prosecuting
229	attorney determines that the claimant is an innocent owner or an interest holder.
230	(b) An agency with custody of seized property, or the prosecuting attorney, may not [

231	release] return property under this Subsection (1) if the property is subject to retention
232	or preservation under Chapter 11c, Retention of Evidence.
233	(2) An agency with custody of the seized property, or the prosecuting attorney, shall [release]
234	return the property to a claimant if:
235	(a) the claimant posts a surety bond or cash with the court in accordance with Section
236	77-11a-302;
237	(b) the court orders the [release] return of property to the claimant for hardship purposes
238	under Section 77-11a-303;
239	(c) a claimant establishes that the claimant is an innocent owner or an interest holder
240	under Section 77-11a-304; or
241	(d) the court orders property retained as evidence to be [released] returned to the claimant
242	under Section 77-11a-305.
243	(3) (a) For a computer determined to be contraband, a court may order the reasonable
244	extraction and return of specifically described personal digital data to the owner of
245	the computer.
246	(b) The agency shall determine a reasonable cost to extract the data.
247	(c) At the time of the request to extract the data, the owner of the computer shall pay the
248	agency the cost to extract the data.
249	(4) If a peace officer for the Division of Wildlife Resources seizes a vehicle, the Division of
250	Wildlife Resources shall [release] return the vehicle to a claimant in accordance with
251	Section 23A-5-201.
252	(5) If an agency is not required, or is no longer required, to retain or preserve property as
253	evidence under Chapter 11c, Retention of Evidence, and the agency seeks to [release]
254	return or dispose of the property, the agency shall exercise due diligence in attempting to
255	notify the claimant of the property to advise the claimant that the property is to be
256	returned.
257	(6) (a) Before an agency may [release] return seized property to a person claiming
258	ownership of the property, the person shall establish that the person:
259	(i) is the owner of the property; and
260	(ii) may lawfully possess the property.
261	(b) The person shall establish ownership under Subsection (6)(a) by providing to the
262	agency:
263	(i) identifying proof or documentation of ownership of the property; or
264	(ii) a notarized statement if proof or documentation is not available.

265	(c) When seized property is returned to the owner, the owner shall sign a receipt listing
266	in detail the property that is returned.
267	(d) The agency shall:
268	(i) retain a copy of the receipt; and
269	(ii) provide a copy of the receipt to the owner.
270	Section 5. Section 77-11a-302 is amended to read:
271	77-11a-302 . Return of seized property to claimant by surety bond or cash.
272	(1) Except as provided in Subsection (2), a claimant may obtain [release] the return of
273	seized property by posting a surety bond or cash with the court that is in an amount
274	equal to the current fair market value of the property as determined by the court or a
275	stipulation by the parties.
276	(2) A court may refuse to order the [release] return of property under Subsection (1) if:
277	(a) the bond tendered for the property is inadequate;
278	(b) the property is subject to the retention or preservation requirements under Chapter
279	11c, Retention of Evidence;
280	(c) the property is particularly altered or designed for use in the commission of the
281	offense subjecting the property to forfeiture under Section 77-11b-102; or
282	(d) the property is contraband.
283	(3) If a surety bond or cash is posted and the court later determines that the property is
284	forfeited, the court shall order the forfeiture of the surety bond or cash in lieu of the
285	property.
286	Section 6. Section 77-11a-303 is amended to read:
287	77-11a-303 . Return of seized property subject to forfeiture to claimant for
288	hardship.
289	(1) A claimant is entitled to the immediate [release] return of seized property for which the
290	agency has filed a notice of intent to forfeit under Section 77-11b-201 if:
291	(a) the claimant had a possessory interest in the property at the time of seizure;
292	(b) continued possession by the agency pending a forfeiture proceeding will cause
293	substantial hardship to the claimant, including:
294	(i) preventing the functioning of a legitimate business;
295	(ii) preventing any individual from working;
296	(iii) preventing any child from attending elementary or secondary school;
297	(iv) preventing or hindering an individual from receiving necessary medical care;
298	(v) preventing the care of a dependent child or adult who is elderly or disabled;

299	(vi) leaving an individual homeless; or
300	(vii) any other condition that the court determines causes a substantial hardship;
301	(c) the hardship from the continued possession of the property by the agency outweighs
302	the risk that the property will be destroyed, damaged, lost, concealed, or transferred if
303	the property is returned to the claimant during the pendency of the proceeding; and
304	(d) the determination of substantial hardship under this Subsection (1) is based upon the
305	property's use before the seizure.
306	(2) A claimant may file a motion or petition for hardship release under this section:
307	(a) in the court in which forfeiture proceedings have commenced; or
308	(b) in a district court where there is venue under Section 77-11a-102 if a forfeiture
309	proceeding has not yet commenced.
310	(3) The motion or petition for hardship release shall be served upon the agency with
311	custody of the property within five days after the day on which the motion or petition is
312	filed.
313	(4) The court shall:
314	(a) schedule a hearing on the motion or petition within 14 days after the day on which
315	the motion or petition is filed; and
316	(b) render a decision on a motion or petition for hardship filed under this section no later
317	than 20 days after the day of the hearing, unless this period is extended by the
318	agreement of both parties or by the court for good cause shown.
319	(5) If the claimant demonstrates substantial hardship under Subsection (1), the court shall
320	order the agency to immediately return the property [immediately released] to the
321	claimant pending completion of any forfeiture proceeding.
322	(6) The court may place conditions on [release] the return of the property as the court finds
323	necessary and appropriate to preserve the availability of the property or the property's
324	equivalent for forfeiture.
325	(7) The hardship release under this section does not apply to:
326	(a) contraband;
327	(b) property that is subject to the retention or preservation requirements under Chapter
328	11c, Retention of Evidence; or
329	(c) property that is likely to be used to commit additional offenses if returned to the
330	claimant.
331	Section 7. Section 77-11a-305 is amended to read:
332	77-11a-305 . Release of seized property to claimant when seized property is

#### 333 retained as evidence. (1) (a) A claimant may file a petition with the court for the return of the property that is 334 335 being retained as evidence in accordance with Chapter 11c, Retention of Evidence. 336 (b) The claimant may file the petition in: 337 (i) the court in which criminal proceedings have commenced regarding the offense 338 for which the property is being retained as evidence; or 339 (ii) the district court with venue under Section 77-11a-102 if there are no pending 340 criminal proceedings. 341 (c) A claimant shall serve a copy of the petition on the prosecuting attorney or federal 342 prosecutor and the agency with custody of the property. 343 (2) (a) The court shall provide an opportunity for an expedited hearing. 344 (b) After the opportunity for an expedited hearing, the court may order that the property 345 is: 346 (i) returned to the claimant if the claimant is the owner as determined by the court; 347 (ii) if the offense subjecting the property to seizure results in a conviction, applied 348 directly or by proceeds of the sale of the property toward restitution, fines, or fees 349 owed by the claimant in an amount set by the court: 350 (iii) converted to a public interest use; 351 (iv) held for further legal action; 352 (v) sold at public auction and the proceeds of the sale applied to a public interest use; 353 or 354 (vi) destroyed. 355 (3) Before the court can order property be returned to a claimant, the claimant shall 356 establish, by clear and convincing evidence, that the claimant: 357 (a) is the owner of the property; and 358 (b) may lawfully possess the property. 359 (4) If the court orders the property to be returned to the claimant, the agency with custody 360 of the property shall return the property to the claimant as expeditiously as possible. 361 Section 8. Section 77-11c-103 is amended to read: 362 77-11c-103. Disposal or return of evidence. 363 When evidence is no longer subject to retention under this chapter, the agency 364 shall: (1) return evidence that is property to a claimant under [Title 77, Chapter 11a, Part 3, 365 366 Release of Seized Property to Claimant] Chapter 11a, Part 3, Return of Seized Property

367	to Claimant; or
368	(2) dispose of evidence that is property or contraband in accordance with [Title 77, Chapter
369	11a, Part 4, Disposal of Seized Property and Contraband] Chapter 11a, Part 4, Disposal
370	of Seized Property and Contraband.
371	Section 9. Section 77-11c-202 is amended to read:
372	77-11c-202 . Requirements for not retaining evidence of a misdemeanor offense
373	Preservation of sufficient evidence.
374	(1) An agency is not required to retain evidence of a misdemeanor offense under Section
375	77-11c-201 if:
376	(a) (i) the agency determines that:
377	(A) the size, bulk, or physical character of the evidence renders retention
378	impracticable; or
379	(B) the evidence poses a security or safety problem for the agency;
380	(ii) the agency preserves sufficient evidence of the property, contraband, item, or
381	substance for use as evidence in a prosecution of the offense[-in accordance with
382	this section];
383	(iii) the agency sends a written request under Subsection 77-11c-203(1) to the
384	prosecuting attorney for permission to [release] return or dispose of the evidence;
385	and
386	(iv) the prosecuting attorney grants the agency's written request in accordance with
387	Section 77-11c-203;
388	(b) a court orders the agency to return evidence that is property to a claimant under
389	Section 77-11a-305; or
390	(c) the evidence is wildlife or parts of wildlife.
391	(2) (a) Subsection (1) does not require an agency to return or dispose of evidence of a
392	misdemeanor offense.
393	(b) Subsection (1)(a) does not apply when the [release] return or disposal of evidence of
394	a misdemeanor offense is in compliance with a memorandum of understanding
395	between the agency and the prosecuting attorney.
396	(3) If [evidence] the evidence described in Subsection (1) is a controlled substance, an
397	agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the controlled
398	substance by:
399	(a) collecting and preserving a sample of the controlled substance [and a sample of
400	biological evidence from the controlled substance ]for independent testing and use as

401	evidence;
402	(b) taking a photographic or video record of the controlled substance with identifying
403	case numbers;
404	(c) maintaining a written report of a chemical analysis of the controlled substance if a
405	chemical analysis was performed by the agency; and
406	(d) if the controlled substance exceeds 10 pounds, retain at least one pound of the
407	controlled substance that is randomly selected from the controlled substance.
408	(4) If [evidence] the evidence described in Subsection (1) is drug paraphernalia, an agency
409	shall preserve sufficient evidence under Subsection (1)(a)(ii) of the drug paraphernalia
410	by:
411	(a) collecting and preserving a sample of the controlled substance from the drug
412	paraphernalia for independent testing and use as evidence;
413	(b) maintaining a written report of a chemical analysis of the drug paraphernalia if a
414	chemical analysis was performed by the agency; and
415	(c) taking a photographic or video record of the drug paraphernalia with identifying case
416	numbers.
417	(5) If [evidence] the evidence described in Subsection (1) is a computer, the agency shall
418	preserve sufficient evidence under Subsection (1)(a)(ii) of the computer by:
419	(a) extracting all data from the computer that would be evidence in a prosecution of an
420	individual for the offense; and
421	[(b) collecting a sample of biological evidence from the computer for independent
422	testing and use as evidence; and]
423	[(c)] (b) taking a photographic or video record of the computer with identifying case
424	numbers.
425	(6) For any other type of evidence, the agency shall preserve sufficient evidence under
426	Subsection (1)(a)(ii) of the property, contraband, item, or substance by[:]
427	[(a) collecting and preserving a sample of biological evidence from the property,
428	contraband, item, or substance for independent testing and use as evidence; and (b)]
429	taking a photographic or video record of the property, contraband, item, or substance
430	with identifying case numbers.
431	Section 10. Section 77-11c-203 is amended to read:
432	77-11c-203 . Request to prosecuting attorney by agency Notification to
433	defendant.

434 (1) If an agency determines that the agency is not required to retain evidence of a

435		misdemeanor offense under Subsection 77-11c-202(1)(a)(i) and the agency seeks to [
436		release] return or dispose of the evidence, the agency shall send a written request to the
437		prosecuting attorney that:
438		(a) identifies the evidence;
439		(b) explains the reason for which the agency is not required to retain the evidence under
440		Subsection 77-11c-202(1)(a)(i); and
441		(c) explains the steps that the agency will take, or has taken, to preserve sufficient
442		evidence of the property, contraband, item, or substance for use as evidence in a
443		prosecution of the offense.
444	(2)	If the prosecuting attorney receives a written request under Subsection (1) and
445		determines that the agency needs to retain the evidence for a prosecution of the
446		misdemeanor offense, the prosecuting attorney shall send a written notification to the
447		agency that explains the reason for which the prosecuting attorney is denying the
448		agency's request.
449	(3)	If the prosecuting attorney receives a written request under Subsection (1) and
450		determines that the agency does not need to retain the evidence for a prosecution of the
451		misdemeanor offense, the prosecuting attorney shall provide written notice of the intent
452		to not retain the evidence that:
453		(a) is sent by certified mail, return receipt requested, or a delivery service that provides
454		proof of delivery, to:
455		(i) any individual charged with or adjudicated for the offense; and
456		(ii) the individual's most recent attorney of record; and
457		(b) explains that the individual receiving the notice may submit a written objection to the
458		prosecuting attorney.
459	(4)	(a) An individual, who is charged with or adjudicated for the offense, may submit a
460		written objection to the [disposal or release] return or disposal of the evidence by the
461		agency no later than 30 days after the day on which the prosecuting attorney receives
462		proof of delivery under Subsection (3).
463		(b) If an individual submits a written objection under Subsection (4)(a), the prosecuting
464		attorney shall send a written notification to the agency that explains the reason for
465		which the prosecuting attorney is denying the agency's request.
466		(c) If the prosecuting attorney does not receive a written objection within the time period
467		described in Subsection (4)(a), the prosecuting attorney shall send a written
468		notification to the agency that grants the agency's request to [release] return or dispose

469	of the evidence.
470	(5) (a) If a prosecuting attorney receives a written request from an agency seeking to [
471	release] return or dispose of evidence, the prosecuting attorney shall:
472	(i) provide a notice of receipt to the agency within 15 days after the day on which the
473	prosecuting attorney receives the written request; and
474	(ii) send a written notification to the agency of the prosecuting attorney's decision to
475	deny or grant an agency's written request within 60 days after the day on which
476	the prosecuting attorney receives the agency's written request.
477	(b) If an agency does not receive a notice of receipt under Subsection (5)(a)(i) or a
478	written notification under Subsection (5)(a)(ii), the agency may send the written
479	request to the district attorney, county attorney, attorney general, or other prosecuting
480	attorney who directly oversees and supervises the prosecuting attorney.
481	(6) If a prosecuting attorney denies an agency's written request to [release] return or dispose
482	of evidence under this section, the agency shall retain the evidence in accordance with
483	Section 77-11c-201.
484	(7) The requirements of this section do not apply when the [release] return or disposal of
485	evidence of a misdemeanor offense is in compliance with a memorandum of
486	understanding between the agency and the prosecuting attorney.
487	Section 11. Section 77-11c-301 is amended to read:
488	77-11c-301 . Retention of evidence for felony offenses.
489	[(1) Except as provided in Subsection (4) and Subsection 23A-5-201(3), an agency shall
490	retain evidence of a felony offense:]
491	[(a) at the discretion of the prosecuting attorney; or]
492	[(b) until all direct appeals and retrials are final.]
493	[(2) If the prosecuting attorney decides to retain control over the evidence of the felony
494	offense in anticipation of possible collateral attacks upon the judgment or for use in a
495	potential prosecution, the prosecuting attorney may decline to authorize the disposal of
496	the evidence.]
497	(1) Except as provided in Subsection (4), an agency shall retain evidence of a felony
498	offense:
499	(a) for the longer of:
500	(i) the length of the statute of limitations for the felony offense if:
501	(A) charges are not filed for the felony offense; or
502	(B) the felony offense remains unsolved;

503	(ii) the length of time that any individual convicted of the felony offense, or a lesser
504	included offense, remains in custody;
505	(iii) one year after the day on which all direct appeals of the final judgment for any
506	individual convicted of the felony offense, or a lesser included offense, are
507	exhausted; or
508	(iv) the length of time that a petition for postconviction relief, and any appeal of the
509	petition, is pending if an individual convicted of the felony offense files the
510	petition within the one-year time period described in Subsection (1)(c); or
511	(b) at the discretion of the prosecuting attorney or federal prosecutor if the prosecution
512	of the felony offense resulted in an acquittal or dismissal.
513	[(3)] (2) An agency shall ensure that evidence of a felony offense is subject to a continuous
514	chain of custody.
515	(3) Subsection (1) does not require an agency to return or dispose of evidence of a felony
516	offense.
517	(4) An agency shall retain and preserve biological evidence of a violent felony offense in
518	accordance with Part 4, Preservation of Biological Evidence for Violent Felony Offenses.
519	Section 12. Section 77-11c-302 is enacted to read:
520	77-11c-302 . Requirements for not retaining evidence of felony offense
520 521	<u>77-11c-302</u> . Requirements for not retaining evidence of felony offense Preservation of sufficient evidence.
521	Preservation of sufficient evidence.
521 522	Preservation of sufficient evidence.(1)An agency is not required to retain evidence of a felony offense under Section
521 522 523	Preservation of sufficient evidence. (1) An agency is not required to retain evidence of a felony offense under Section <u>77-11c-301 if:</u>
521 522 523 524	<ul> <li>Preservation of sufficient evidence.</li> <li>(1) An agency is not required to retain evidence of a felony offense under Section 77-11c-301 if:</li> <li>(a) (i) the agency determines that:</li> </ul>
521 522 523 524 525	<ul> <li>Preservation of sufficient evidence.</li> <li>(1) An agency is not required to retain evidence of a felony offense under Section 77-11c-301 if:</li> <li>(a) (i) the agency determines that:</li> <li>(A) the size, bulk, or physical character of the evidence renders retention</li> </ul>
<ul> <li>521</li> <li>522</li> <li>523</li> <li>524</li> <li>525</li> <li>526</li> </ul>	<ul> <li>Preservation of sufficient evidence.</li> <li>(1) An agency is not required to retain evidence of a felony offense under Section 77-11c-301 if: <ul> <li>(a) (i) the agency determines that:</li> <li>(A) the size, bulk, or physical character of the evidence renders retention impracticable or the evidence poses a security or safety problem for the</li> </ul></li></ul>
<ul> <li>521</li> <li>522</li> <li>523</li> <li>524</li> <li>525</li> <li>526</li> <li>527</li> </ul>	<ul> <li>Preservation of sufficient evidence.</li> <li>(1) An agency is not required to retain evidence of a felony offense under Section 77-11c-301 if: <ul> <li>(a) (i) the agency determines that:</li> <li>(A) the size, bulk, or physical character of the evidence renders retention impracticable or the evidence poses a security or safety problem for the agency; and</li> </ul> </li> </ul>
<ul> <li>521</li> <li>522</li> <li>523</li> <li>524</li> <li>525</li> <li>526</li> <li>527</li> <li>528</li> </ul>	<ul> <li>Preservation of sufficient evidence.</li> <li>(1) An agency is not required to retain evidence of a felony offense under Section <ul> <li>77-11c-301 if:</li> <li>(a) (i) the agency determines that:</li> <li>(A) the size, bulk, or physical character of the evidence renders retention <ul> <li>impracticable or the evidence poses a security or safety problem for the <ul> <li>agency; and</li> <li>(B) the evidence no longer has any significant evidentiary value;</li> </ul> </li> <li>(ii) the agency preserves sufficient evidence from the property, contraband, item, or <ul> <li>substance for use as evidence in a prosecution of the offense; and</li> </ul> </li> </ul></li></ul></li></ul>
<ul> <li>521</li> <li>522</li> <li>523</li> <li>524</li> <li>525</li> <li>526</li> <li>527</li> <li>528</li> <li>529</li> </ul>	<ul> <li>Preservation of sufficient evidence.</li> <li>(1) An agency is not required to retain evidence of a felony offense under Section 77-11c-301 if: <ul> <li>(a) (i) the agency determines that:</li> <li>(A) the size, bulk, or physical character of the evidence renders retention impracticable or the evidence poses a security or safety problem for the agency; and</li> <li>(B) the evidence no longer has any significant evidentiary value;</li> <li>(ii) the agency preserves sufficient evidence from the property, contraband, item, or substance for use as evidence in a prosecution of the offense; and</li> <li>(iii) a prosecuting attorney or a court authorizes the agency to return or dispose of the</li> </ul> </li> </ul>
<ul> <li>521</li> <li>522</li> <li>523</li> <li>524</li> <li>525</li> <li>526</li> <li>527</li> <li>528</li> <li>529</li> <li>530</li> <li>531</li> <li>532</li> </ul>	<ul> <li>Preservation of sufficient evidence.</li> <li>(1) An agency is not required to retain evidence of a felony offense under Section 77-11c-301 if: <ul> <li>(a) (i) the agency determines that:</li> <li>(A) the size, bulk, or physical character of the evidence renders retention impracticable or the evidence poses a security or safety problem for the agency; and</li> <li>(B) the evidence no longer has any significant evidentiary value;</li> <li>(ii) the agency preserves sufficient evidence from the property, contraband, item, or substance for use as evidence in a prosecution of the offense; and</li> <li>(iii) a prosecuting attorney or a court authorizes the agency to return or dispose of the evidence as described in Subsection 77-11c-303;</li> </ul> </li> </ul>
<ul> <li>521</li> <li>522</li> <li>523</li> <li>524</li> <li>525</li> <li>526</li> <li>527</li> <li>528</li> <li>529</li> <li>530</li> <li>531</li> <li>532</li> <li>533</li> </ul>	<ul> <li>Preservation of sufficient evidence.</li> <li>(1) An agency is not required to retain evidence of a felony offense under Section 77-11c-301 if: <ul> <li>(a) (i) the agency determines that:</li> <li>(A) the size, bulk, or physical character of the evidence renders retention impracticable or the evidence poses a security or safety problem for the agency; and</li> <li>(B) the evidence no longer has any significant evidentiary value;</li> <li>(ii) the agency preserves sufficient evidence from the property, contraband, item, or substance for use as evidence in a prosecution of the offense; and</li> <li>(iii) a prosecuting attorney or a court authorizes the agency to return or dispose of the evidence as described in Subsection 77-11c-303;</li> </ul> </li> </ul>
<ul> <li>521</li> <li>522</li> <li>523</li> <li>524</li> <li>525</li> <li>526</li> <li>527</li> <li>528</li> <li>529</li> <li>530</li> <li>531</li> <li>532</li> <li>533</li> <li>534</li> </ul>	<ul> <li>Preservation of sufficient evidence.</li> <li>(1) An agency is not required to retain evidence of a felony offense under Section 77-11c-301 if: <ul> <li>(a) (i) the agency determines that:</li> <li>(A) the size, bulk, or physical character of the evidence renders retention impracticable or the evidence poses a security or safety problem for the agency; and</li> <li>(B) the evidence no longer has any significant evidentiary value;</li> <li>(ii) the agency preserves sufficient evidence from the property, contraband, item, or substance for use as evidence in a prosecution of the offense; and</li> <li>(iii) a prosecuting attorney or a court authorizes the agency to return or dispose of the evidence as described in Subsection 77-11c-303;</li> </ul> </li> <li>(b) a court orders the agency to return evidence that is property to a claimant under Section 77-11a-305; or</li> </ul>
<ul> <li>521</li> <li>522</li> <li>523</li> <li>524</li> <li>525</li> <li>526</li> <li>527</li> <li>528</li> <li>529</li> <li>530</li> <li>531</li> <li>532</li> <li>533</li> </ul>	<ul> <li>Preservation of sufficient evidence.</li> <li>(1) An agency is not required to retain evidence of a felony offense under Section 77-11c-301 if: <ul> <li>(a) (i) the agency determines that:</li> <li>(A) the size, bulk, or physical character of the evidence renders retention impracticable or the evidence poses a security or safety problem for the agency; and</li> <li>(B) the evidence no longer has any significant evidentiary value;</li> <li>(ii) the agency preserves sufficient evidence from the property, contraband, item, or substance for use as evidence in a prosecution of the offense; and</li> <li>(iii) a prosecuting attorney or a court authorizes the agency to return or dispose of the evidence as described in Subsection 77-11c-303;</li> </ul> </li> </ul>

537	offense.
538	(3) Subsection (1) does not apply to biological evidence of a violent felony offense because
539	an agency is required to retain biological evidence of a violent felony offense as
540	described in Part 4, Preservation of Biological Evidence for Violent Felony Offenses.
541	(4) If the evidence described in Subsection (1) is a controlled substance, an agency shall
542	preserve sufficient evidence under Subsection (1)(a)(ii) of the controlled substance by:
543	(a) collecting and preserving a sample of the controlled substance for independent
544	testing and use as evidence;
545	(b) taking a photographic or video record of the controlled substance with identifying
546	case numbers;
547	(c) maintaining a written report of a chemical analysis of the controlled substance if a
548	chemical analysis was performed by the agency;
549	(d) if the controlled substance exceeds 10 pounds, retaining at least one pound of the
550	controlled substance that is randomly selected from the controlled substance; and
551	(e) for a violent felony offense, collecting and preserving biological evidence from the
552	controlled substance as described in Section 77-11c-401.
553	(5) If the evidence described in Subsection (1) is drug paraphernalia, an agency shall
554	preserve sufficient evidence under Subsection (1)(a)(ii) of the drug paraphernalia by:
555	(a) collecting and preserving a sample of the controlled substance from the drug
556	paraphernalia for independent testing and use as evidence;
557	(b) maintaining a written report of a chemical analysis of the drug paraphernalia if a
558	chemical analysis was performed by the agency;
559	(c) taking a photographic or video record of the drug paraphernalia with identifying case
560	numbers; and
561	(d) for a violent felony offense, collecting and preserving biological evidence from the
562	drug paraphernalia as described in Section 77-11c-401.
563	(6) If the evidence described in Subsection (1) is a computer, the agency shall preserve
564	sufficient evidence under Subsection (1)(a)(ii) of the computer by:
565	(a) extracting all data from the computer that would be evidence in a prosecution of an
566	individual for the offense;
567	(b) taking a photographic or video record of the computer with identifying case
568	numbers; and
569	(c) for a violent felony offense, collecting and preserving biological evidence from the
570	computer as described in Section 77-11c-401.

571	(7) For any other type of evidence, the agency shall preserve sufficient evidence under
572	Subsection (1)(a)(ii) of the property, contraband, item, or substance by:
573	(a) taking a photographic or video record of the property, contraband, item, or substance
574	with identifying case numbers; and
575	(b) for a violent felony offense, collecting and preserving biological evidence as
576	described in Section 77-11c-401.
577	Section 13. Section 77-11c-303 is enacted to read:
578	77-11c-303 . Procedure for authorizing the return or disposal of evidence of a
579	felony offense.
580	(1) If an agency determines that the agency is not required to retain evidence of a felony
581	offense under Subsection 77-11c-302(1)(a)(i), and the agency seeks to return or dispose
582	of the evidence, the agency shall send a written request to the prosecuting attorney that:
583	(a) identifies the evidence:
584	(b) explains the reason that the agency is not required to retain the evidence under
585	Subsection 77-11c-302(1)(a)(i); and
586	(c) explains the steps that the agency will take, or has taken, to preserve sufficient
587	evidence from the property, contraband, item, or substance for use as evidence in a
588	prosecution of the offense.
589	(2) If a prosecuting attorney receives a written request described in Subsection (1), the
590	prosecuting attorney shall:
591	(a) provide a notice of receipt to the agency within 15 days after the day on which the
592	prosecuting attorney receives the written request; and
593	(b) send a written notification to the agency of the prosecuting attorney's decision to
594	deny or grant an agency's written request within 60 days after the day on which the
595	prosecuting attorney receives the agency's written request.
596	(3) If an agency sends a written request described in Subsection (1) to the prosecuting
597	attorney, the agency shall also send the written request by certified mail, return receipt
598	requested, or a delivery service that provides proof of delivery, to:
599	(a) any individual who remains in custody based on a conviction related to the evidence;
600	(b) the private attorney or public defender of record for each individual described in
601	Subsection (3)(a);
602	(c) the entity that employed the private attorney or public defender described in
603	Subsection (3)(b) at the time of the criminal conviction;
604	(d) if applicable, the prosecuting agency responsible for the prosecution of each

605	individual described in Subsection (3)(a); and
606	(e) the Utah attorney general.
607	(4) (a) If a person described in Subsection (3) receives a written request from an agency
608	seeking to return or dispose of evidence of the felony offense, the person may object
609	to the agency's written request to return or dispose of evidence of the felony offense.
610	(b) To object to an agency's request under Subsection (4)(a), the person must send a
611	written objection to the agency and prosecuting attorney within 60 days after the day
612	on which the person receives the agency's written request.
613	(5) If the prosecuting attorney receives a written request under Subsection (2) and
614	determines that the agency needs to retain the evidence for a prosecution of the felony
615	offense, the prosecuting attorney shall send a written notification to the agency that
616	explains the reason for which the prosecuting attorney is denying the agency's request.
617	(6) The agency may petition the court for an order granting the agency's request to return or
618	dispose of the evidence of a felony offense if:
619	(a) the prosecuting attorney denies the agency's written request or does not respond to an
620	agency's written request within the time periods described in Subsection (2); or
621	(b) a person described in Subsection (3) objects to the agency's written request.
622	(7) The court shall hold a hearing on the agency's petition to determine whether an agency's
623	request to return or dispose of evidence should be granted.
624	(8) After a hearing on the agency's petition, the court shall grant an agency's request to
625	return or dispose of evidence of a felony offense if the court determines, by a
626	preponderance of the evidence, that:
627	(a) the size, bulk, or physical character of the evidence renders retention impracticable or
628	the evidence poses a security or safety problem for the agency;
629	(b) the evidence no longer has any significant evidentiary value; and
630	(c) the agency will take, or has taken, steps to preserve sufficient evidence from the
631	property, contraband, item, or substance for use as evidence in a prosecution of the
632	offense.
633	(9) If the court determines that a prosecuting attorney, or a person described in Subsection
634	(3), objects to an agency's request to dispose or return of physical evidence of a felony
635	offense because the physical evidence contains biological evidence that would be
636	evidence in a prosecution of the offense, the court may require the agency to collect and
637	preserve biological evidence from the physical evidence before the agency returns or
638	disposes of the evidence.

639	(10) If a prosecuting attorney denies the agency's written request or a person described in
640	Subsection (3) objects to the agency's written request, the agency shall retain the
641	evidence of a felony offense as described in Section 77-11c-301 until:
642	(a) the agency obtains a court order granting the agency's request to return or dispose of
643	the evidence as described in Subsection (8); or
644	(b) the time periods described in Section 77-11c-301 have expired.
645	Section 14. Section 77-11c-401 is amended to read:
646	77-11c-401 . Preservation of biological evidence Procedures Inventory
647	request.
648	(1) Except as provided in Section 77-11c-402, an evidence collecting or retaining entity
649	shall preserve biological evidence of a violent felony offense in accordance with this
650	part.
651	(2) An evidence collecting or retaining entity shall preserve biological evidence of a violent
652	felony offense:
653	(a) for the longer of:
654	(i) the length of the statute of limitations for the violent felony offense if:
655	(A) no charges are filed for the violent felony offense; or
656	(B) the violent felony offense remains unsolved;
657	[(ii) the length of time that the individual convicted of the violent felony offense or
658	any lesser included violent offense remains in custody; or]
659	[(iii) the length of time that a co-defendant remains in custody;]
660	(ii) the length of time that any individual convicted of the violent felony offense, or a
661	lesser included offense, remains in custody;
662	(iii) one year after the day on which all direct appeals of the judgment for any
663	individual convicted of the violent felony offense, or a lesser included offense, are
664	exhausted; or
665	(iv) the length of time that a petition for postconviction relief, and any appeal of the
666	petition, is pending if an individual convicted of the violent felony offense files
667	the petition within the one-year time period described in Subsection (2)(a)(iii); or
668	(b) at the discretion of the prosecuting attorney or federal prosecutor if the prosecution
669	of the violent felony offense resulted in an acquittal or dismissal.
670	[(b)] (3) An evidence collecting or retaining entity shall ensure that biological evidence
671	under Subsection (2) is:
672	(a) preserved in an amount and manner sufficient to:

673	(i) develop a DNA profile; and
674	(ii) if practicable, allow for independent testing of the biological evidence by a
675	defendant; and
676	[(e)] (b) subject to a continuous chain of custody.
677	[(3)] (4) (a) Upon request by a defendant under Title 63G, Chapter 2, Government
678	Records Access and Management Act, the evidence collecting or retaining entity
679	shall prepare an inventory of the biological evidence preserved in connection with the
680	defendant's criminal case.
681	(b) If the evidence collecting or retaining entity cannot locate biological evidence
682	requested under Subsection [ $(3)(a)$ ] $(4)(a)$ , the custodian for the entity shall provide a
683	sworn affidavit to the defendant that:
684	(i) describes the efforts taken to locate the biological evidence; and
685	(ii) affirms that the biological evidence could not be located.
686	[(4)] (5) The evidence collecting or retaining entity may dispose of biological evidence
687	before the day on which the period described in Subsection [ $(2)(a)$ ] (2) expires if:
688	(a) no other provision of federal or state law requires the evidence collecting or retaining
689	entity to preserve the biological evidence;
690	(b) the evidence collecting or retaining entity sends notice in accordance with
691	Subsection $\left[\frac{(5)}{(6)}\right]$ (6); and
692	(c) an individual notified under Subsection $[(5)(a)]$ (6)(a) does not within 180 days after
693	the day on which the evidence collecting or retaining entity receives proof of delivery
694	under Subsection [ <del>(5)</del> ] <u>(6)</u> :
695	(i) file a motion for testing of the biological evidence under Section 78B-9-301; or
696	(ii) submit a written request under Subsection [ <del>(5)(b)(ii)</del> ] (6)(b)(ii).
697	[(5)] (6) If the evidence collecting or retaining entity intends to dispose of the biological
698	evidence before the day on which the period described in Subsection $\left[\frac{(2)(a)}{(2)}\right]$ (2) expires,
699	the evidence collecting or retaining entity shall send a notice of intent to dispose of the
700	biological evidence that:
701	(a) is sent by certified mail, return receipt requested, or a delivery service that provides
702	proof of delivery, to:
703	(i) an individual who remains in custody based on a criminal conviction related to the
704	biological evidence;
705	(ii) the private attorney or public defender of record for each individual described in
706	Subsection $[(5)(a)(i)] (6)(a)(i);$

707	(iii) the entity that employed the private attorney or public defender at the time of the
708	criminal conviction;
709	[(iii)] (iv) if applicable, the prosecuting agency responsible for the prosecution of each
710	individual described in Subsection $\left[\frac{(5)(a)(i)}{(b)(a)(i)}\right]$ (6)(a)(i); and
711	[(iv)] (v) the Utah attorney general; and
712	(b) explains that the party receiving the notice may:
713	(i) file a motion for testing of biological evidence under Section 78B-9-301; or
714	(ii) submit a written request that the evidence collecting or retaining entity retain the
715	biological evidence.
716	[(6)] (7) (a) Subject to Subsections $[(6)(b)]$ (7)(b) and (c), if the evidence collecting or
717	retaining entity receives a written request to retain the biological evidence under
718	Subsection [(5)(b)(ii)] (6)(b)(ii), the evidence collecting or retaining entity shall retain
719	the biological evidence while the defendant remains in custody.
720	(b) Subject to Subsection (6)(c), the evidence collecting or retaining entity may only
721	return or dispose of physical evidence of a violent felony offense as described in Part
722	3, Retention of Evidence for Felony Offenses.
723	[(b) Subject to Subsection (6)(c), the evidence collecting or retaining entity is not
724	required to preserve physical evidence that may contain biological evidence if the
725	physical evidence's size, bulk, or physical character renders retention impracticable.]
726	(c) If the evidence collecting or retaining entity [determines that retention is
727	impracticable] is not required to retain physical evidence of the violent felony offense
728	under Part 3, Retention of Evidence for Felony Offenses, before returning or
729	disposing of the physical evidence, the evidence collecting or retaining entity shall:
730	(i) remove the portions of the physical evidence likely to contain biological evidence
731	related to the violent felony offense; and
732	(ii) preserve the removed biological evidence in a quantity sufficient to permit future
733	DNA testing.
734	[(7)] (8) To comply with the preservation requirements described in this section, a law
735	enforcement agency or a court may:
736	(a) retain the biological evidence; or
737	(b) if a continuous chain of custody can be maintained, return the biological evidence to
738	the custody of the other law enforcement agency that originally provided the
739	biological evidence to the law enforcement agency.
740	Section 15. Effective date.

741 This bill takes effect on May 1, 2024.