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**STATE COMMISSION ON CRIMINAL  
AND JUVENILE JUSTICE AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael K. McKell**

House Sponsor: Karianne Lisonbee

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**LONG TITLE**

**General Description:**

This bill amends provisions regarding the State Commission on Criminal and Juvenile Justice.

**Highlighted Provisions:**

This bill:

- adjusts the number of members on:
  - the State Commission on Criminal and Juvenile Justice; and
  - the sentencing commission;
- amends the duties of the Sentencing Commission;
- requires the Legislature to approve the sentencing and supervision length guidelines and the juvenile disposition guidelines developed by the State Commission on Criminal and Juvenile Justice; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:**

AMENDS:

- 36-29-108**, as last amended by Laws of Utah 2023, Chapter 112
- 63M-7-102**, as enacted by Laws of Utah 2023, Chapter 177
- 63M-7-202**, as last amended by Laws of Utah 2023, Chapter 150
- 63M-7-204**, as last amended by Laws of Utah 2023, Chapters 158, 330, 382, and 500

27        **63M-7-402**, as last amended by Laws of Utah 2020, Chapter 154  
 28        **63M-7-405**, as last amended by Laws of Utah 2022, Chapter 274  
 29        **63M-7-406**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
 30        **64-13-6**, as last amended by Laws of Utah 2023, Chapter 177  
 31        **64-13-14.5**, as last amended by Laws of Utah 2015, Chapter 412  
 32        **64-13-21**, as last amended by Laws of Utah 2022, Chapter 187  
 33        **64-13g-102**, as last amended by Laws of Utah 2023, Chapter 177  
 34        **76-3-202**, as last amended by Laws of Utah 2022, Chapter 181  
 35        **76-5-102.1**, as last amended by Laws of Utah 2023, Chapters 111, 415  
 36        **76-5-207**, as last amended by Laws of Utah 2023, Chapter 415  
 37        **77-2a-2**, as last amended by Laws of Utah 2020, Chapter 281  
 38        **77-18-105**, as last amended by Laws of Utah 2023, Chapters 111, 257  
 39        **77-18-108**, as last amended by Laws of Utah 2023, Chapter 113  
 40        **77-27-5**, as last amended by Laws of Utah 2023, Chapters 151, 173  
 41        **77-27-10**, as last amended by Laws of Utah 2022, Chapter 430  
 42        **77-27-11**, as last amended by Laws of Utah 2022, Chapter 115  
 43        **77-27-32**, as enacted by Laws of Utah 2023, Chapter 151  
 44        **80-6-307**, as renumbered and amended by Laws of Utah 2021, Chapter 261  
 45        **80-6-607**, as renumbered and amended by Laws of Utah 2021, Chapter 261

46 ENACTS:

47        **63M-7-101.5**, Utah Code Annotated 1953  
 48        **63M-7-401.1**, Utah Code Annotated 1953  
 49        **63M-7-402.5**, Utah Code Annotated 1953  
 50        **63M-7-404.1**, Utah Code Annotated 1953  
 51        **63M-7-404.3**, Utah Code Annotated 1953  
 52        **63M-7-404.5**, Utah Code Annotated 1953

53 RENUMBERS AND AMENDS:

54        **63M-7-401.2**, (Renumbered from 63M-7-401, as last amended by Laws of Utah 2021,  
 55        Chapter 173)

56 REPEALS:

57        **63M-7-403**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
 58        **63M-7-404**, as last amended by Laws of Utah 2023, Chapter 111

59 **Utah Code Sections affected by Coordination Clause:**

60        **63M-7-202**, as last amended by Laws of Utah 2023, Chapter 150

61 \_\_\_\_\_  
62 *Be it enacted by the Legislature of the state of Utah:*

63 Section 1. Section **36-29-108** is amended to read:

64 **36-29-108 . Criminal Code Evaluation Task Force.**

- 65 (1) As used in this section, "task force" means the Criminal Code Evaluation Task Force  
66 created in this section.
- 67 (2) There is created the Criminal Code Evaluation Task Force consisting of the following  
68 15 members:
- 69 (a) three members of the Senate appointed by the president of the Senate, no more than  
70 two of whom may be from the same political party;
  - 71 (b) three members of the House of Representatives appointed by the speaker of the  
72 House of Representatives, no more than two of whom may be from the same political  
73 party;
  - 74 (c) the executive director of the State Commission on Criminal and Juvenile Justice or  
75 the executive director's designee;
  - 76 (d) the director of the [~~Utah~~] Sentencing Commission or the director's designee;
  - 77 (e) one member appointed by the presiding officer of the Utah Judicial Council;
  - 78 (f) one member of the Utah Prosecution Council appointed by the chair of the Utah  
79 Prosecution Council;
  - 80 (g) the executive director of the Department of Corrections or the executive director's  
81 designee;
  - 82 (h) the commissioner of the Department of Public Safety or the commissioner's designee;
  - 83 (i) the director of the Utah Office for Victims of Crime or the director's designee;
  - 84 (j) an individual who represents an association of criminal defense attorneys, appointed  
85 by the president of the Senate; and
  - 86 (k) an individual who represents an association of victim advocates, appointed by the  
87 speaker of the House of Representatives.
- 88 (3) (a) The president of the Senate shall designate a member of the Senate appointed  
89 under Subsection (2)(a) as a cochair of the task force.
- 90 (b) The speaker of the House of Representatives shall designate a member of the House  
91 of Representatives appointed under Subsection (2)(b) as a cochair of the task force.
- 92 (4) (a) A majority of the members of the task force constitutes a quorum.
- 93 (b) The action of a majority of a quorum constitutes an action of the task force.
- 94 (5) (a) Salaries and expenses of the members of the task force who are legislators shall

95 be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5,  
 96 Chapter 3, Legislator Compensation.  
 97 (b) A member of the task force who is not a legislator:  
 98 (i) may not receive compensation for the member's work associated with the task  
 99 force; and  
 100 (ii) may receive per diem and reimbursement for travel expenses incurred as a  
 101 member of the task force at the rates established by the Division of Finance under  
 102 Sections 63A-3-106 and 63A-3-107.

103 (6) The Office of Legislative Research and General Counsel shall provide staff support to  
 104 the task force.

105 (7) The task force shall review the state's criminal code and related statutes and make  
 106 recommendations regarding:

- 107 (a) the proper classification of crimes by degrees of felony and misdemeanor;
- 108 (b) standardizing the format of criminal statutes; and
- 109 (c) other modifications related to the criminal code and related statutes.

110 (8) On or before November 30 of each year that the task force is in effect, the task force  
 111 shall provide a report, including any proposed legislation, to:

- 112 (a) the Law Enforcement and Criminal Justice Interim Committee; and
- 113 (b) the Legislative Management Committee.

114 (9) The task force is repealed July 1, 2028.

115 Section 2. Section **63M-7-101.5** is enacted to read:

116 **63M-7-101.5 . Definitions for chapter.**

117 As used in this chapter:

118 (1) "Commission" means the State Commission on Criminal and Juvenile Justice created in  
 119 Section 63M-7-201.

120 (2) "Desistance" means an individual's abstinence from further criminal activity after a  
 121 previous criminal conviction.

122 (3) "Intervention" means a program, sanction, supervision, or event that may impact  
 123 recidivism.

124 (4) "Recidivism" means a return to criminal activity after a previous criminal conviction.

125 (5) "Recidivism standard metric" means the number of individuals who are returned to  
 126 prison for a new conviction within the three years after the day on which the individuals  
 127 were released from prison.

128 Section 3. Section **63M-7-102** is amended to read:

129 **63M-7-102 . Recidivism metrics -- Reporting.**130 [~~(1)~~ For purposes of this chapter:]131 [~~(a)~~ "Commission" means the State Commission on Criminal and Juvenile Justice created  
132 in Section 63M-7-201.]133 [~~(b)~~ "Desistance" means an individual's abstinence from further criminal activity after a  
134 previous criminal conviction.]135 [~~(c)~~ "Intervention" means a program, sanction, supervision, or event that may impact  
136 recidivism.]137 [~~(d)~~ "Recidivism" means a return to criminal activity after a previous criminal conviction.]138 [~~(e)~~ "Recidivism standard metric" means the number of individuals who are returned to  
139 prison for a new conviction within the three years after the day on which the individuals  
140 were released from prison.]141 [~~(2)~~] (1) (a) The commission, the Department of Corrections, and the Board of Pardons  
142 and Parole, when reporting data on statewide recidivism, shall include data reflecting  
143 the recidivism standard metric.144 (b) (i) On or before August 1, 2024, the commission shall reevaluate the recidivism  
145 standard metric to determine whether new data streams allow for a broader  
146 definition, which may include criminal convictions that do not include prison time.147 (ii) On or before November 1, 2024, the commission shall report to the Law  
148 Enforcement and Criminal Justice Interim Committee:149 (A) the result of the reevaluation described in Subsection [~~(2)(b)(i)~~] (1)(b)(i); and

150 (B) other recommendations regarding standardized recidivism metrics.

151 [~~(3)~~] (2) A report on statewide criminal recidivism may also include other information  
152 reflecting available recidivism, intervention, or desistance data.153 [~~(4)~~] (3) A criminal justice institution, agency, or entity required to report adult recidivism  
154 data to the commission:

155 (a) shall include:

156 (i) a clear description of the eligible individuals, including:

157 (A) the criminal population being evaluated for recidivism; and

158 (B) the interventions that are being evaluated;

159 (ii) a clear description of the beginning and end of the evaluation period; and

160 (iii) a clear description of the events that are considered as a recidivism-triggering  
161 event; and

162 (b) may include supplementary data including:

- 163 (i) the length of time that elapsed before a recidivism-triggering event described in  
 164 Subsection ~~[(4)(a)(iii)]~~ (3)(a)(iii) occurred;
- 165 (ii) the severity of a recidivism-triggering event described in Subsection ~~[(4)(a)(iii)]~~  
 166 (3)(a)(iii);
- 167 (iii) measures of personal well-being, education, employment, housing, health, family  
 168 or social support, civic or community engagement, or legal involvement; or
- 169 (iv) other desistance metrics that may capture an individual's behavior following the  
 170 individual's release from an intervention.

171 ~~[(5)]~~ (4) Unless otherwise specified in statute:

- 172 (a) the evaluation period described in Subsection ~~[(4)(a)(ii)]~~ (3)(a)(ii) is three years; and
- 173 (b) a recidivism-triggering event under Subsection ~~[(4)(a)(iii)]~~ (3)(a)(iii) shall include:
- 174 (i) an arrest;
- 175 (ii) an admission to prison;
- 176 (iii) a criminal charge; or
- 177 (iv) a criminal conviction.

178 *The following section is affected by a coordination clause at the end of this bill.*

179 Section 4. Section **63M-7-202** is amended to read:

180 **63M-7-202 . Composition -- Appointments -- Ex officio members -- Terms --**  
 181 **United States Attorney as nonvoting member.**

182 (1) The State Commission on Criminal and Juvenile Justice is composed of ~~[26]~~ 17 voting  
 183 members as follows:

- 184 ~~[(a) the chief justice of the supreme court, as the presiding officer of the judicial~~  
 185 ~~council, or a judge designated by the chief justice;]~~
- 186 ~~[(b)]~~ (a) the state court administrator or the state court administrator's designee;
- 187 ~~[(e)]~~ (b) the executive director of the Department of Corrections or the executive  
 188 director's designee;
- 189 ~~[(d)]~~ (c) the executive director of the Department of Health and Human Services or the  
 190 executive director's designee;
- 191 ~~[(e)]~~ (d) the commissioner of the Department of Public Safety or the commissioner's  
 192 designee;
- 193 ~~[(f)]~~ (e) the attorney general or an attorney designated by the attorney general;
- 194 ~~[(g)]~~ (f) the president of the chiefs of police association or a chief of police designated by  
 195 the association's president;
- 196 ~~[(h)]~~ (g) the president of the sheriffs' association or a sheriff designated by the

- 197 association's president;
- 198 ~~[(h)]~~ (h) the chair of the Board of Pardons and Parole or a member of the Board of
- 199 Pardons and Parole designated by the chair;
- 200 ~~[(i)]~~ (i) the chair of the Utah Sentencing Commission or a member of the Utah
- 201 Sentencing Commission designated by the chair;
- 202 ~~[(k)]~~ the chair of the Utah Substance Use and Mental Health Advisory Council or a
- 203 member of the Utah Substance Use and Mental Health Advisory Council designated
- 204 by the chair;]
- 205 ~~[(l)]~~ the chair of the Utah Board of Juvenile Justice or a member of the Utah Board of
- 206 Juvenile Justice designated by the chair;]
- 207 (j) the chair of the Juvenile Justice Oversight Committee or a member of the Juvenile
- 208 Justice Oversight Committee designated by the chair;
- 209 ~~[(m)]~~ (k) the chair of the Utah Victim Services Commission or a member of the Utah
- 210 Victim Services Commission designated by the chair;
- 211 ~~[(n)]~~ the chair of the Utah Council on Victims of Crime or a member of the Utah
- 212 Council on Victims of Crime designated by the chair;]
- 213 ~~[(o)]~~ the executive director of the Salt Lake Legal Defender Association or an attorney
- 214 designated by the executive director;]
- 215 ~~[(p)]~~ (l) [the chair of the] an indigent defense attorney, appointed by the Utah Indigent
- 216 Defense Commission~~[- or a member of the Indigent Defense Commission~~
- 217 designated by the chair];
- 218 ~~[(q)]~~ the Salt Lake County District Attorney or an attorney designated by the district
- 219 attorney; and]
- 220 ~~[(r)]~~ the following members designated to serve four-year terms:]
- 221 ~~[(i)]~~ a juvenile court judge, appointed by the chief justice, as presiding officer of the
- 222 Judicial Council;]
- 223 ~~[(ii)]~~ a representative of the statewide association of public attorneys designated by the
- 224 association's officers;]
- 225 ~~[(iii)]~~ one member of the House of Representatives who is appointed by the speaker of
- 226 the House of Representatives; and]
- 227 ~~[(iv)]~~ one member of the Senate who is appointed by the president of the Senate.]
- 228 (m) a criminal prosecutor, appointed by the Statewide Association of Public Attorneys
- 229 and Prosecutors;
- 230 (n) a criminal defense attorney, appointed by the Utah Association of Criminal Defense

- 231 Lawyers;
- 232 (o) the executive director of the commission;
- 233 (p) an education professional, appointed by the State Board of Education; and
- 234 (q) the director of the Division of Juvenile Justice and Youth Services or the director's
- 235 designee.
- 236 ~~[(2) The governor shall appoint the remaining five members to four-year staggered terms~~
- 237 ~~as follows:]~~
- 238 ~~[(a) one criminal defense attorney appointed from a list of three nominees submitted by the~~
- 239 ~~Utah State Bar Association;]~~
- 240 ~~[(b) one attorney who primarily represents juveniles in delinquency matters appointed~~
- 241 ~~from a list of three nominees submitted by the Utah Bar Association;]~~
- 242 ~~[(c) one representative of public education;]~~
- 243 ~~[(d) one citizen representative; and]~~
- 244 ~~[(e) a representative from a local faith who has experience with the criminal justice system.]~~
- 245 ~~[(3) In addition to the members designated under Subsections (1) and (2), the United States~~
- 246 ~~Attorney for the district of Utah or an attorney designated by the United States Attorney~~
- 247 ~~may serve as a nonvoting member.]~~
- 248 ~~[(4)]~~ (2) In addition to the members designated in Subsection (1), the following may serve
- 249 as non-voting members:
- 250 (a) a district court judge appointed by the Judicial Council; and
- 251 (b) a juvenile court judge appointed by the Judicial Council.
- 252 (3) In appointing the members under [Subsection (2)] Subsections (1) and (2), the [governor]
- 253 appointing authority shall take into account the geographical makeup of the commission.
- 254 Section 5. Section **63M-7-204** is amended to read:
- 255 **63M-7-204 . Duties of commission.**
- 256 (1) The ~~[State Commission on Criminal and Juvenile Justice administration]~~ commission
- 257 shall:
- 258 (a) promote the commission's purposes as enumerated in Section 63M-7-201;
- 259 (b) promote the communication and coordination of all criminal and juvenile justice
- 260 agencies;
- 261 (c) study, evaluate, and report on the status of crime in the state and on the effectiveness
- 262 of criminal justice policies, procedures, and programs that are directed toward the
- 263 reduction of crime in the state;
- 264 (d) study, evaluate, and report on programs initiated by state and local agencies to



- 265 address reducing recidivism, including changes in penalties and sentencing  
266 guidelines intended to reduce recidivism, costs savings associated with the reduction  
267 in the number of inmates, and evaluation of expenses and resources needed to meet  
268 goals regarding the use of treatment as an alternative to incarceration, as resources  
269 allow;
- 270 (e) study, evaluate, and report on policies, procedures, and programs of other  
271 jurisdictions which have effectively reduced crime;
- 272 (f) identify and promote the implementation of specific policies and programs the  
273 commission determines will significantly reduce crime in Utah;
- 274 (g) provide analysis and recommendations on all criminal and juvenile justice  
275 legislation, state budget, and facility requests, including program and fiscal impact on  
276 all components of the criminal and juvenile justice system;
- 277 (h) provide analysis, accountability, recommendations, and supervision for state and  
278 federal criminal justice grant money;
- 279 (i) provide public information on the criminal and juvenile justice system and give  
280 technical assistance to agencies or local units of government on methods to promote  
281 public awareness;
- 282 (j) promote research and program evaluation as an integral part of the criminal and  
283 juvenile justice system;
- 284 (k) provide a comprehensive criminal justice plan annually;
- 285 (l) review agency forecasts regarding future demands on the criminal and juvenile  
286 justice systems, including specific projections for secure bed space;
- 287 (m) promote the development of criminal and juvenile justice information systems that  
288 are consistent with common standards for data storage and are capable of  
289 appropriately sharing information with other criminal justice information systems by:
- 290 (i) developing and maintaining common data standards for use by all state criminal  
291 justice agencies;
- 292 (ii) annually performing audits of criminal history record information maintained by  
293 state criminal justice agencies to assess their accuracy, completeness, and  
294 adherence to standards;
- 295 (iii) defining and developing state and local programs and projects associated with  
296 the improvement of information management for law enforcement and the  
297 administration of justice; and
- 298 (iv) establishing general policies concerning criminal and juvenile justice information

- 299 systems and making rules as necessary to carry out the duties under Subsection  
300 (1)(k) and this Subsection (1)(m);
- 301 (n) allocate and administer grants, from money made available, for approved education  
302 programs to help prevent the sexual exploitation of children;
- 303 (o) allocate and administer grants for law enforcement operations and programs related  
304 to reducing illegal drug activity and related criminal activity;
- 305 (p) request, receive, and evaluate data and recommendations collected and reported by  
306 agencies and contractors related to policies recommended by the commission  
307 regarding recidivism reduction, including the data described in Section 13-53-111  
308 and Subsection 26B-5-102(2)(l);
- 309 (q) establish and administer a performance incentive grant program that allocates funds  
310 appropriated by the Legislature to programs and practices implemented by counties  
311 that reduce recidivism and reduce the number of offenders per capita who are  
312 incarcerated;
- 313 (r) oversee or designate an entity to oversee the implementation of juvenile justice  
314 reforms;
- 315 (s) make rules and administer the juvenile holding room standards and juvenile jail  
316 standards to align with the Juvenile Justice and Delinquency Prevention Act  
317 requirements pursuant to 42 U.S.C. Sec. 5633;
- 318 (t) allocate and administer grants, from money made available, for pilot qualifying  
319 education programs;
- 320 (u) oversee the trauma-informed justice program described in Section 63M-7-209;
- 321 (v) request, receive, and evaluate the aggregate data collected from prosecutorial  
322 agencies and the Administrative Office of the Courts, in accordance with Sections  
323 63M-7-216 and 78A-2-109.5;
- 324 (w) report annually to the Law Enforcement and Criminal Justice Interim Committee on  
325 the progress made on each of the following goals of the Justice Reinvestment  
326 Initiative:
- 327 (i) ensuring oversight and accountability;
- 328 (ii) supporting local corrections systems;
- 329 (iii) improving and expanding reentry and treatment services; and
- 330 (iv) strengthening probation and parole supervision;
- 331 (x) compile a report of findings based on the data and recommendations provided under  
332 Section 13-53-111 and Subsection 26B-5-102(2)(n) that:

- 333 (i) separates the data provided under Section 13-53-111 by each residential,  
334 vocational and life skills program; and
- 335 (ii) separates the data provided under Subsection 26B-5-102(2)(n) by each mental  
336 health or substance use treatment program;
- 337 (y) publish the report described in Subsection (1)(x) on the commission's website and  
338 annually provide the report to the Judiciary Interim Committee, the Health and  
339 Human Services Interim Committee, the Law Enforcement and Criminal Justice  
340 Interim Committee, and the related appropriations subcommittees[~~;~~ and] ;
- 341 (z) receive, compile, and publish on the commission's website the data provided under:  
342 (i) Section 53-23-101;  
343 (ii) Section 53-24-102; and  
344 (iii) Section 53-26-101; and
- 345 (aa) accept public comment.
- 346 (2) If the commission designates an entity under Subsection (1)(r), the commission shall  
347 ensure that the membership of the entity includes representation from the three branches  
348 of government and, as determined by the commission, representation from relevant  
349 stakeholder groups across all parts of the juvenile justice system, including county  
350 representation.
- 351 (3) In fulfilling the commission's duties under Subsection (1), the commission may seek  
352 input and request assistance from groups with knowledge and expertise in criminal  
353 justice, including other boards and commissions affiliated or housed within the  
354 commission.
- 355 Section 6. Section **63M-7-401.1** is enacted to read:  
356 **63M-7-401.1 . Definitions for part.**  
357 As used in this part:
- 358 (1) "Adjudication" means an adjudication, as that term is defined in Section 80-1-102, of an  
359 offense under Section 80-6-701.
- 360 (2) "Adult sentencing and supervision length guidelines" means the guidelines established  
361 in Section 63M-7-404.3.
- 362 (3) "Civil disability" means a legal right or privilege that is revoked as a result of the  
363 individual's conviction or adjudication.
- 364 (4) "Collateral consequence" means:  
365 (a) a discretionary disqualification; or  
366 (b) a mandatory sanction.

- 367 (5) "Conviction" means the same as that term is defined in Section 77-38b-102.
- 368 (6) "Disadvantage" means any legal or regulatory restriction that:
- 369 (a) is imposed on an individual as a result of the individual's conviction or adjudication;
- 370 and
- 371 (b) is not a civil disability or a legal penalty.
- 372 (7) "Discretionary disqualification" means a penalty, a civil disability, or a disadvantage
- 373 that a court in a civil proceeding, or a federal, state, or local government agency or
- 374 official, may impose on an individual as a result of the individual's adjudication or
- 375 conviction for an offense regardless of whether the penalty, the civil disability, or the
- 376 disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage.
- 377 (8) "Juvenile" means a minor as that term is defined in Section 80-1-102.
- 378 (9) "Juvenile disposition guidelines" means the guidelines established in Section
- 379 63M-7-404.5.
- 380 (10) "Mandatory sanction" means a penalty, a civil disability, or a disadvantage that:
- 381 (a) is imposed on an individual as a result of the individual's adjudication or conviction
- 382 for an offense regardless of whether the penalty, the civil disability, or the
- 383 disadvantage is specifically designated as a penalty, a civil disability, or a
- 384 disadvantage; and
- 385 (b) is not included in the judgment for the adjudication or conviction.
- 386 (11) "Master offense list" means a document that contains all offenses that exist in statute
- 387 and each offense's associated penalty.
- 388 (12) "Offense" means a felony, a misdemeanor, an infraction, or an adjudication under the
- 389 laws of this state, another state, or the United States.
- 390 (13) "Penalty" means an administrative, civil, or criminal sanction imposed to punish the
- 391 individual for the individual's conviction or adjudication.
- 392 (14) "Sentencing commission" means the sentencing commission created in Section
- 393 63M-7-401.2.
- 394 Section 7. Section **63M-7-401.2**, which is renumbered from Section 63M-7-401 is renumbered
- 395 and amended to read:
- 396 **[63M-7-401] 63M-7-401.2. . Creation -- Members -- Appointment -- Qualifications.**
- 397 (1) There is created [~~a state commission to be known as the Sentencing Commission~~] the
- 398 sentencing commission, within the commission, that is composed of [28] 15 voting
- 399 members.
- 400 (2) The [~~commission shall~~] sentencing commission shall:

- 401        (a) develop by-laws and rules in compliance with Title 63G, Chapter 3, Utah  
402            Administrative Rulemaking Act[, and elect its] ; and
- 403        (b) elect the sentencing commission's officers.
- 404    [~~2~~] (3) The sentencing commission's members shall be:
- 405        ~~[(a) two members of the House of Representatives, appointed by the speaker of the~~  
406            ~~House and not of the same political party;]~~
- 407        ~~[(b) two members of the Senate, appointed by the president of the Senate and not of the~~  
408            ~~same political party;]~~
- 409        ~~[(e)] (a) the executive director of the Department of Corrections or [a designee appointed~~  
410            ~~by the executive director] the executive director's designee;~~
- 411        ~~[(d)] (b) the director of the Division of Juvenile Justice and Youth Services or [a~~  
412            ~~designee appointed by the director] the director's designee;~~
- 413        ~~[(e)] (c) the executive director of the [Commission on Criminal and Juvenile Justice or a~~  
414            ~~designee appointed by the executive director] commission or the executive director's~~  
415            designee;
- 416        ~~[(f)] (d) the chair of the Board of Pardons and Parole or [a designee appointed by the~~  
417            ~~chair] the chair's designee;~~
- 418        ~~[(g) the chair of the Youth Parole Authority or a designee appointed by the chair;]~~
- 419        ~~[(h) two trial judges and an appellate judge appointed by the chair of the Judicial~~  
420            ~~Council;]~~
- 421        ~~[(i) two juvenile court judges designated by the chair of the Judicial Council;]~~
- 422        ~~[(j) an attorney in private practice who is a member of the Utah State Bar, experienced~~  
423            ~~in criminal defense, and appointed by the Utah Bar Commission;]~~
- 424        ~~[(k) an attorney who is a member of the Utah State Bar, experienced in the defense of~~  
425            ~~minors in juvenile court, and appointed by the Utah Bar Commission;]~~
- 426        ~~[(l) the director of Salt Lake Legal Defenders or a designee appointed by the director;]~~
- 427        ~~[(m)] (e) the state court administrator or the state court administrator's designee;~~
- 428        (f) a criminal defense attorney, appointed by the Utah Association of Criminal Defense  
429            Lawyers;
- 430        (g) an indigent defense attorney, appointed by the Indigent Defense Commission;
- 431        (h) the attorney general or [a designee appointed by the attorney general] the attorney  
432            general's designee;
- 433        ~~[(n)] (i) a criminal prosecutor, appointed by the Statewide Association of Public~~  
434            Attorneys and Prosecutors;

- 435 ~~[(o) a juvenile court prosecutor appointed by the Statewide Association of Public~~  
 436 ~~Attorneys;]~~
- 437 ~~[(p)] (j) a representative of the Utah Sheriff's Association appointed by the governor;~~  
 438 ~~[(q) a chief of police appointed by the governor;]~~
- 439 ~~[(r)] (k) a licensed professional, appointed by the governor, who assists in the~~  
 440 ~~rehabilitation of [adult offenders] individuals convicted of an offense;~~
- 441 ~~[(s) a licensed professional appointed by the governor who assists in the rehabilitation~~  
 442 ~~of juvenile offenders;]~~
- 443 ~~[(t) two members from the public appointed by the governor who exhibit sensitivity to~~  
 444 ~~the concerns of victims of crime and the ethnic composition of the population;]~~
- 445 ~~[(u) one member from the public at large appointed by the governor; and]~~
- 446 ~~[(v) a representative of an organization that specializes in civil rights or civil liberties~~  
 447 ~~on behalf of incarcerated individuals appointed by the governor.]~~
- 448 (l) the chair of the Utah Victim Services Commission or a member of the Utah Victim  
 449 Services Commission designated by the chair;
- 450 (m) the chair of the Juvenile Justice Oversight Committee or a member of the Juvenile  
 451 Justice Oversight Committee designated by the chair;
- 452 (n) a juvenile prosecuting attorney, appointed by the Statewide Association of Public  
 453 Attorneys and Prosecutors; and
- 454 (o) a juvenile defense attorney, appointed by the Utah Association of Criminal Defense  
 455 Lawyers.

456 (4) In addition to the members described in Subsection (3), the following may serve as  
 457 non-voting members:

- 458 (a) a district court judge appointed by the Judicial Council; and  
 459 (b) a juvenile court judge appointed by the Judicial Council.

460 (5) The executive director of the commission shall hire a director of the sentencing  
 461 commission to administer and manage the sentencing commission.

462 Section 8. Section **63M-7-402** is amended to read:

463 **63M-7-402 . Terms of members -- Reappointment -- Vacancy.**

- 464 (1) (a) Except as required by Subsection (1)(b), ~~[as terms of current commission~~  
 465 ~~members expire,]~~ the appointing authority shall appoint each new member or  
 466 reappointed member to a four-year term as the terms of members of the sentencing  
 467 commission expire.
- 468 (b) ~~[Notwithstanding the requirements of Subsection (1)(a), the]~~ The appointing authority

469 shall, at the time of appointment or reappointment, adjust the length of terms to  
470 ensure that the terms of [~~commission members~~] members of the sentencing  
471 commission are staggered so that approximately half of the sentencing commission is  
472 appointed every two years.

473 (2) If a member of the sentencing commission no longer holds a qualifying position,  
474 resigns, or is unable to serve, the appointing authority shall fill the vacancy.

475 [~~(2)~~] (3) When a vacancy occurs in the membership for any reason, the replacement shall be  
476 appointed for the unexpired term.

477 Section 9. Section **63M-7-402.5** is enacted to read:

478 **63M-7-402.5 . Compensation of members.**

479 (1) A member of the sentencing commission who is not a legislator may not receive  
480 compensation or benefits for the member's service, but may receive per diem and travel  
481 expenses as allowed in:

482 (a) Section 63A-3-106;

483 (b) Section 63A-3-107; and

484 (c) rules made by the Division of Finance according to Sections 63A-3-106 and  
485 63A-3-107.

486 (2) Compensation and expenses of a member of the sentencing commission who is a  
487 legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5,  
488 Legislative Compensation and Expenses.

489 Section 10. Section **63M-7-404.1** is enacted to read:

490 **63M-7-404.1 . Duties of the sentencing commission.**

491 (1) The sentencing commission shall establish and maintain:

492 (a) the adult sentencing and supervision length guidelines described in Section  
493 63M-7-404.3;

494 (b) the juvenile disposition guidelines described in Section 63M-7-404.5;

495 (c) a master offense list described in Section 63M-7-405; and

496 (d) a collateral consequences guide described in Section 63M-7-405.

497 (2) The sentencing commission may make recommendations to the Legislature, the  
498 governor, and the Judicial Council regarding:

499 (a) the adult sentencing and supervision length guidelines described in Section  
500 63M-7-404.3;

501 (b) the juvenile disposition guidelines described in Section 63M-7-404.5;

502 (c) a master offense list described in Section 63M-7-405; and

- 503        (d) a collateral consequences guide described in Section 63M-7-405.
- 504        (3) The sentencing commission shall use existing data and resources from state criminal  
505        justice agencies in carrying out the duties of the sentencing commission.
- 506        (4) The sentencing commission shall:
- 507        (a) provide training and recommendations regarding the adult sentencing and  
508        supervision length guidelines, the juvenile disposition guidelines, and other  
509        documents maintained by the sentencing commission to the three branches of  
510        government, in coordination with the commission; and
- 511        (b) assist and respond to questions from all three branches of government.
- 512        (5) (a) The sentencing commission may provide analysis and recommendations to the  
513        commission regarding proposed legislation or other policy changes that may impact  
514        sentencing, release, or supervision of individuals convicted of crimes.
- 515        (b) The sentencing commission may not take public positions on proposed legislation or  
516        other proposed policy changes by the Legislature.
- 517        (6) The sentencing commission may employ professional assistance and other staff  
518        members that the sentencing commission considers necessary to comply with this part.
- 519        (7) The sentencing commission shall coordinate with the commission on criminal and  
520        juvenile justice issues, budget, and administrative support.

521        Section 11. Section **63M-7-404.3** is enacted to read:

522        **63M-7-404.3 . Adult sentencing and supervision length guidelines.**

- 523        (1) The sentencing commission shall establish and maintain adult sentencing and  
524        supervision length guidelines regarding:
- 525        (a) the sentencing and release of offenders in order to:
- 526        (i) accept public comment;
- 527        (ii) relate sentencing practices and correctional resources;
- 528        (iii) increase equity in sentencing;
- 529        (iv) better define responsibility in sentencing; and
- 530        (v) enhance the discretion of the sentencing court while preserving the role of the  
531        Board of Pardons and Parole;
- 532        (b) the length of supervision of offenders on probation or parole in order to:
- 533        (i) accept public comment;
- 534        (ii) increase equity in criminal supervision lengths;
- 535        (iii) relate the length of supervision to an offender's progress;
- 536        (iv) take into account an offender's risk of offending again;



- 537 (v) relate the length of supervision to the amount of time an offender has remained  
538 under supervision in the community; and
- 539 (vi) enhance the discretion of the sentencing court while preserving the role of the  
540 Board of Pardons and Parole; and
- 541 (c) appropriate, evidence-based probation and parole supervision policies and services  
542 that assist offenders in successfully completing supervision and reduce incarceration  
543 rates from community supervision programs while ensuring public safety, including:
- 544 (i) treatment and intervention completion determinations based on individualized  
545 case action plans;
- 546 (ii) measured and consistent processes for addressing violations of conditions of  
547 supervision;
- 548 (iii) processes that include using positive reinforcement to recognize an offender's  
549 progress in supervision;
- 550 (iv) engaging with social services agencies and other stakeholders who provide  
551 services that meet the needs of an offender; and
- 552 (v) identifying community violations that may not warrant revocation of probation or  
553 parole.
- 554 (2) The sentencing commission shall modify:
- 555 (a) the adult sentencing and supervision length guidelines to reduce recidivism for the  
556 purposes of protecting the public and ensuring efficient use of state funds; and
- 557 (b) the criminal history score in the adult sentencing and supervision length guidelines to  
558 reduce recidivism, including factors in an offender's criminal history that are relevant  
559 to the accurate determination of an individual's risk of offending again.
- 560 Section 12. Section **63M-7-404.5** is enacted to read:
- 561 **63M-7-404.5 . Juvenile disposition guidelines.**
- 562 (1) The sentencing commission shall establish and maintain juvenile disposition guidelines  
563 that:
- 564 (a) respond to public comment;
- 565 (b) relate dispositional practices and rehabilitative resources;
- 566 (c) increase equity in disposition orders;
- 567 (d) better define responsibility for disposition orders; and
- 568 (e) enhance the discretion of the juvenile court while preserving the role of the Youth  
569 Parole Authority.
- 570 (2) The juvenile disposition guidelines shall address how to appropriately respond to

- 571 negative and positive behavior of juveniles who are:
- 572 (a) nonjudicially adjusted;
- 573 (b) placed on diversion;
- 574 (c) placed on probation;
- 575 (d) placed on community supervision;
- 576 (e) placed in an out-of-home placement; or
- 577 (f) placed in a secure care facility.
- 578 (3) The juvenile disposition guidelines shall include:
- 579 (a) other sanctions and incentives including:
- 580 (i) recommended responses that are swift and certain;
- 581 (ii) a continuum of community-based options for juveniles living at home;
- 582 (iii) recommended responses that target the juvenile's criminogenic risk and needs;
- 583 and
- 584 (iv) recommended incentives for compliance, including earned discharge credits;
- 585 (b) a recommendation that, when a juvenile court interacts with a juvenile described in
- 586 Subsection (2), the juvenile court shall consider:
- 587 (i) the seriousness of the negative and positive behavior of the juvenile;
- 588 (ii) the juvenile's conduct postadjudication; and
- 589 (iii) the juvenile's delinquency history; and
- 590 (c) appropriate sanctions for a juvenile who commits sexual exploitation of a minor as
- 591 described in Section 76-5b-201, or aggravated sexual exploitation of a minor as
- 592 described in Section 76-5b-201.1, including the application of aggravating and
- 593 mitigating factors specific to the offense.

594 Section 13. Section **63M-7-405** is amended to read:

595 **63M-7-405 . Master offense list -- Collateral consequences guide.**

- 596 ~~[(1) (a) A member who is not a legislator may not receive compensation or benefits for the~~
- 597 ~~member's service, but may receive per diem and travel expenses as allowed in:]~~
- 598 ~~[(i) Section 63A-3-106;]~~
- 599 ~~[(ii) Section 63A-3-107; and]~~
- 600 ~~[(iii) rules made by the Division of Finance according to Sections 63A-3-106 and~~
- 601 ~~63A-3-107.]~~
- 602 ~~[(b) Compensation and expenses of a member who is a legislator are governed by Section~~
- 603 ~~36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.]~~
- 604 ~~[(2) (a) The commission shall submit to the Legislature, the courts, and the governor at~~

- 605 least 60 days before the annual general session of the Legislature the commission's  
606 reports and recommendations for sentencing guidelines and supervision length  
607 guidelines and amendments.]
- 608 [(b) The commission shall use existing data and resources from state criminal justice  
609 agencies.]
- 610 [(c) The commission may employ professional assistance and other staff members as it  
611 considers necessary or desirable.]
- 612 [(3) The commission shall assist and respond to questions from all three branches of  
613 government, but is part of the Commission on Criminal and Juvenile Justice for  
614 coordination on criminal and juvenile justice issues, budget, and administrative support.]
- 615 [(4)] (1) [(a) As used in this Subsection (4), "master offense list" means a document that  
616 contains all offenses that exist in statute and each offense's associated penalty.]
- 617 [(b)] (a) [No later than May 1, 2017, the] The sentencing commission shall create a  
618 master offense list.
- 619 [(c)] (b) [No later than June 30 of each calendar] On or before June 30 of each year, the  
620 sentencing commission shall:
- 621 (i) after the last day of the general legislative session, update the master offense list;  
622 and
- 623 (ii) present the updated master offense list to the Law Enforcement and Criminal  
624 Justice Interim Committee.
- 625 [(5) As used in Subsection (6):]
- 626 [(a) "Adjudication" means an adjudication, as that term is defined in Section 80-1-102, of  
627 an offense under Section 80-6-701.]
- 628 [(b) "Civil disability" means a legal right or privilege that is revoked as a result of the  
629 individual's conviction or adjudication.]
- 630 [(c) "Collateral consequence" means:]
- 631 [(i) a discretionary disqualification; or]
- 632 [(ii) a mandatory sanction.]
- 633 [(d) "Conviction" means the same as that term is defined in Section 77-38b-102.]
- 634 [(e) "Disadvantage" means any legal or regulatory restriction that:]
- 635 [(i) is imposed on an individual as a result of the individual's conviction or adjudication;  
636 and]
- 637 [(ii) is not a civil disability or a legal penalty.]
- 638 [(f) "Discretionary disqualification" means a penalty, a civil disability, or a disadvantage

639 that a court in a civil proceeding, or a federal, state, or local government agency or  
 640 official, may impose on an individual as a result of the individual's adjudication or  
 641 conviction for an offense regardless of whether the penalty, the civil disability, or the  
 642 disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage.]

643 [(g) "Mandatory sanction" means a penalty, a civil disability, or a disadvantage that:]

644 [(i) is imposed on an individual as a result of the individual's adjudication or conviction for  
 645 an offense regardless of whether the penalty, the civil disability, or the disadvantage is  
 646 specifically designated as a penalty, a civil disability, or a disadvantage; and]

647 [(ii) is not included in the judgment for the adjudication or conviction.]

648 [(h) "Offense" means a felony, a misdemeanor, an infraction, or an adjudication under the  
 649 laws of this state, another state, or the United States.]

650 [(i) "Penalty" means an administrative, civil, or criminal sanction imposed to punish the  
 651 individual for the individual's conviction or adjudication.]

652 [(6)] (2) (a) The sentencing commission shall:

653 (i) identify any provision of state law, including the Utah Constitution, and any  
 654 administrative rule that imposes a collateral consequence;

655 (ii) prepare and compile a guide that contains all the provisions identified in  
 656 Subsection [(6)(a)(i) on or before October 1, 2022] (2)(a)(i); and

657 (iii) update the guide described in Subsection [(6)(a)(ii)] (2)(a)(ii) annually.

658 (b) The sentencing commission shall state in the guide described in Subsection [(6)(a)]  
 659 (2)(a) that:

660 (i) the guide has not been enacted into law;

661 (ii) the guide does not have the force of law;

662 (iii) the guide is for informational purposes only;

663 (iv) an error or omission in the guide, or in any reference in the guide:

664 (A) has no effect on a plea, an adjudication, a conviction, a sentence, or a  
 665 disposition; and

666 (B) does not prevent a collateral consequence from being imposed;

667 (v) any laws or regulations for a county, a municipality, another state, or the United  
 668 States, imposing a collateral consequence are not included in the guide; and

669 (vi) the guide does not include any provision of state law or any administrative rule  
 670 imposing a collateral consequence that is enacted on or after March 31 of each  
 671 year.

672 (c) The sentencing commission shall:

- 673 (i) place the statements described in Subsection [~~(6)(b)~~] (2)(b) in a prominent place at  
674 the beginning of the guide; and
- 675 (ii) make the guide available to the public on the sentencing commission's website.
- 676 (d) The sentencing commission shall:
- 677 (i) present the updated guide described in Subsection [~~(6)(a)(iii)~~] (2)(a)(iii) annually  
678 to the Law Enforcement and Criminal Justice Interim Committee; and
- 679 (ii) identify and recommend legislation on collateral consequences to the Law  
680 Enforcement and Criminal Justice Interim Committee.

681 Section 14. Section **63M-7-406** is amended to read:

682 **63M-7-406 . Reports -- Legislative approval -- Publication of reports.**

- 683 (1) (a) On or before October 31 of each year, the commission shall submit the  
684 sentencing and supervision length guidelines and juvenile disposition guidelines  
685 created in accordance with Sections 63M-7-404.3 and 63M-7-404.5 to the Law  
686 Enforcement and Criminal Justice Interim Committee and the Judiciary Interim  
687 Committee for review, including any legislative recommendations.
- 688 (b) Beginning January 1, 2025, the Legislature shall annually authorize, by passing a  
689 concurrent resolution, the sentencing and supervision length guidelines and the  
690 juvenile disposition guidelines submitted in accordance with Subsection (1)(a).
- 691 (c) The existing sentencing and supervision length guidelines and juvenile disposition  
692 guidelines that were approved in accordance with Subsection (1)(b) shall remain in  
693 effect until the day on which the Legislature reauthorizes the sentencing and  
694 supervision length guidelines and juvenile disposition guidelines as described in  
695 Subsection (1)(b).
- 696 (2) The sentencing commission shall also be authorized to prepare, publish, and distribute  
697 from time to time reports of [its] studies, recommendations, and statements from the  
698 sentencing commission.

699 Section 15. Section **64-13-6** is amended to read:

700 **64-13-6 . Department duties.**

- 701 (1) The department shall:
- 702 (a) protect the public through institutional care and confinement, and supervision in the  
703 community of offenders where appropriate;
- 704 (b) implement court-ordered punishment of offenders;
- 705 (c) provide evidence-based and evidence-informed program opportunities for offenders  
706 designed to reduce offenders' criminogenic and recidivism risks, including

- 707 behavioral, cognitive, educational, and career-readiness program opportunities;
- 708 (d) ensure that offender participation in all program opportunities described in  
709 Subsection (1)(c) is voluntary;
- 710 (e) where appropriate, utilize offender volunteers as mentors in the program  
711 opportunities described in Subsection (1)(c);
- 712 (f) provide treatment for sex offenders who are found to be treatable based upon criteria  
713 developed by the department;
- 714 (g) provide the results of ongoing clinical assessment of sex offenders and objective  
715 diagnostic testing to sentencing and release authorities;
- 716 (h) manage programs that take into account the needs and interests of victims, where  
717 reasonable;
- 718 (i) supervise probationers and parolees as directed by statute and implemented by the  
719 courts and the Board of Pardons and Parole;
- 720 (j) subject to Subsection (2), investigate criminal conduct involving offenders  
721 incarcerated in a state correctional facility;
- 722 (k) cooperate and exchange information with other state, local, and federal law  
723 enforcement agencies to achieve greater success in prevention and detection of crime  
724 and apprehension of criminals;
- 725 (l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult  
726 Offender Supervision;
- 727 (m) establish a case action plan based on appropriate validated risk, needs, and  
728 responsivity assessments for each offender as follows:
- 729 (i) (A) if an offender is to be supervised in the community, the department shall  
730 establish a case action plan for the offender no later than 60 days after the day  
731 on which the department's community supervision of the offender begins; and  
732 (B) if the offender is committed to the custody of the department, the department  
733 shall establish a case action plan for the offender no later than 90 days after the  
734 day on which the offender is committed to the custody of the department;
- 735 (ii) each case action plan shall integrate an individualized, evidence-based, and  
736 evidence-informed treatment and program plan with clearly defined completion  
737 requirements;
- 738 (iii) the department shall share each newly established case action plan with the  
739 sentencing and release authority within 30 days after the day on which the case  
740 action plan is established; and

- 741 (iv) the department shall share any changes to a case action plan, including any  
742 change in an offender's risk assessment, with the sentencing and release authority  
743 within 30 days after the day of the change;
- 744 (n) ensure that any training or certification required of a public official or public  
745 employee, as those terms are defined in Section 63G-22-102, complies with Title  
746 63G, Chapter 22, State Training and Certification Requirements, if the training or  
747 certification is required:
- 748 (i) under this title;  
749 (ii) by the department; or  
750 (iii) by an agency or division within the department; and
- 751 (o) when reporting on statewide recidivism, include the metrics and requirements  
752 described in Section 63M-7-102.
- 753 (2) The department may in the course of supervising probationers and parolees:
- 754 (a) respond [~~in accordance with the graduated and evidence-based processes established~~  
755 ~~by the Utah Sentencing Commission under Subsection 63M-7-404(6);~~] to an  
756 individual's violation of one or more terms of the probation or parole in accordance  
757 with the graduated and evidence-based processes established by the adult sentencing  
758 and supervision length guidelines, as defined in Section 63M-7-401.1; and
- 759 (b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction  
760 for an individual's violation of the terms of probation or parole a period of  
761 incarceration of not more than three consecutive days and not more than a total of  
762 five days within a period of 30 days.
- 763 (3) (a) By following the procedures in Subsection (3)(b), the department may investigate  
764 the following occurrences at state correctional facilities:
- 765 (i) criminal conduct of departmental employees;  
766 (ii) felony crimes resulting in serious bodily injury;  
767 (iii) death of any person; or  
768 (iv) aggravated kidnaping.
- 769 (b) Before investigating any occurrence specified in Subsection (3)(a), the department  
770 shall:
- 771 (i) notify the sheriff or other appropriate law enforcement agency promptly after  
772 ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a)  
773 has occurred; and  
774 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to

- 775                   conduct an investigation involving an occurrence specified in Subsection (3)(a).
- 776 (4) Upon request, the department shall provide copies of investigative reports of criminal  
777                   conduct to the sheriff or other appropriate law enforcement agencies.
- 778 (5) (a) The executive director of the department, or the executive director's designee if  
779                   the designee possesses expertise in correctional programming, shall consult at least  
780                   annually with cognitive and career-readiness staff experts from the Utah system of  
781                   higher education and the State Board of Education to review the department's  
782                   evidence-based and evidence-informed treatment and program opportunities.
- 783 (b) Beginning in the 2022 interim, the department shall provide an annual report to the  
784                   Law Enforcement and Criminal Justice Interim Committee regarding the  
785                   department's implementation of and offender participation in evidence-based and  
786                   evidence-informed treatment and program opportunities designed to reduce the  
787                   criminogenic and recidivism risks of offenders over time.
- 788 (6) (a) As used in this Subsection (6):
- 789                   (i) "Accounts receivable" means any amount owed by an offender arising from a  
790                   criminal judgment that has not been paid.
- 791                   (ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,  
792                   surcharges, costs, interest, penalties, restitution to victims, third-party claims,  
793                   claims, reimbursement of a reward, and damages that an offender is ordered to  
794                   pay.
- 795 (b) The department shall collect and disburse, with any interest and any other costs  
796                   assessed under Section 64-13-21, an accounts receivable for an offender during:
- 797                   (i) the parole period and any extension of that period in accordance with Subsection  
798                   (6)(c); and
- 799                   (ii) the probation period for which the court orders supervised probation and any  
800                   extension of that period by the department in accordance with Subsection  
801                   77-18-105(7).
- 802 (c) (i) If an offender has an unpaid balance of the offender's accounts receivable at  
803                   the time that the offender's sentence expires or terminates, the department shall be  
804                   referred to the sentencing court for the sentencing court to enter a civil judgment  
805                   of restitution and a civil accounts receivable as described in Section 77-18-114.
- 806                   (ii) If the board makes an order for restitution within 60 days from the day on which  
807                   the offender's sentence expires or terminates, the board shall refer the order for  
808                   restitution to the sentencing court to be entered as a civil judgment of restitution as



809 described in Section 77-18-114.

810 (d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.

811 Section 16. Section **64-13-14.5** is amended to read:

812 **64-13-14.5 . Limits of confinement place -- Release status -- Work release.**

813 (1) The department may extend the limits of the place of confinement of an inmate when, as  
814 established by department policies and procedures, there is cause to believe the inmate  
815 will honor the trust, by authorizing the inmate under prescribed conditions:

816 (a) to leave temporarily for purposes specified by department policies and procedures to  
817 visit specifically designated places for a period not to exceed 30 days;

818 (b) to participate in a voluntary training program in the community while housed at a  
819 correctional facility or to work at paid employment;

820 (c) to be housed in a nonsecure community correctional center operated by the  
821 department; or

822 (d) to be housed in any other facility under contract with the department.

823 (2) (a) The department shall establish rules governing offenders on release status.

824 (b) A copy of the rules established under Subsection (2)(a) shall be furnished to the  
825 offender and to any employer or other person participating in the offender's release  
826 program.

827 (c) Any employer or other participating person shall agree in writing to abide by the  
828 rules established under Subsection (2)(a) and to notify the department of the  
829 offender's discharge or other release from a release program activity, or of any  
830 violation of the rules governing release status.

831 (3) The willful failure of an inmate to remain within the extended limits of his confinement  
832 or to return within the time prescribed to an institution or facility designated by the  
833 department is an escape from custody.

834 (4) If an offender is arrested for the commission of a crime, the arresting authority shall  
835 immediately notify the department of the arrest.

836 (5) The department may impose appropriate sanctions pursuant to Section 64-13-21 upon  
837 offenders who violate [~~guidelines established by the Utah Sentencing Commission~~] the  
838 adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1,  
839 including prosecution for escape under Section 76-8-309 and for unauthorized absence.

840 (6) An inmate who is housed at a nonsecure correctional facility and on work release may  
841 not be required to work for less than the current federally established minimum wage, or  
842 under substandard working conditions.

843 Section 17. Section **64-13-21** is amended to read:

844 **64-13-21 . Supervision of sentenced offenders placed in community --**

845 **Rulemaking -- POST certified parole or probation officers and peace officers --**

846 **Duties -- Supervision fee.**

847 (1) (a) The department, except as otherwise provided by law, shall supervise sentenced  
848 offenders placed in the community on probation by the courts, on parole by the Board  
849 of Pardons and Parole, or upon acceptance for supervision under the terms of the  
850 Interstate Compact for the Supervision of Parolees and Probationers.

851 (b) If a sentenced offender participates in substance use treatment or a residential,  
852 vocational and life skills program, as defined in Section 13-53-102, while under  
853 supervision on probation or parole, the department shall monitor the offender's  
854 compliance with and completion of the treatment or program.

855 (c) The department shall establish standards for:

856 (i) the supervision of offenders in accordance with [~~sentencing guidelines and~~  
857 ~~supervision length guidelines, including the graduated and evidence-based~~  
858 ~~responses, established by the Utah Sentencing Commission]~~ the adult sentencing  
859 and supervision length guidelines, as defined in Section 63M-7-401.1, giving  
860 priority, based on available resources, to felony offenders and offenders sentenced  
861 under Subsection 58-37-8 (2)(b)(ii); and

862 (ii) the monitoring described in Subsection (1)(b).

863 (2) The department shall apply the graduated and evidence-based responses established [~~by~~  
864 ~~the Utah Sentencing Commission]~~ in the adult sentencing and supervision length  
865 guidelines, as defined in Section 63M-7-401.1, to facilitate a prompt and appropriate  
866 response to an individual's violation of the terms of probation or parole, including:

867 (a) sanctions to be used in response to a violation of the terms of probation or parole; and

868 (b) requesting approval from the court or Board of Pardons and Parole to impose a  
869 sanction for an individual's violation of the terms of probation or parole, for a period  
870 of incarceration of not more than three consecutive days and not more than a total of  
871 five days within a period of 30 days.

872 (3) The department shall implement a program of graduated incentives as established [~~by~~  
873 ~~the Utah Sentencing Commission]~~ in the adult sentencing and supervision length  
874 guidelines, as defined in Section 63M-7-401.1, to facilitate the department's prompt and  
875 appropriate response to an offender's:

876 (a) compliance with the terms of probation or parole; or

- 877 (b) positive conduct that exceeds those terms.
- 878 (4) (a) The department shall, in collaboration with the State Commission on Criminal  
879 and Juvenile Justice and the Division of Substance Abuse and Mental Health, create  
880 standards and procedures for the collection of information, including cost savings  
881 related to recidivism reduction and the reduction in the number of inmates, related to  
882 the use of the graduated and evidence-based responses and graduated incentives, and  
883 offenders' outcomes.
- 884 (b) The collected information shall be provided to the State Commission on Criminal  
885 and Juvenile Justice not less frequently than annually on or before August 31.
- 886 (5) Employees of the department who are POST certified as law enforcement officers or  
887 correctional officers and who are designated as parole and probation officers by the  
888 executive director have the following duties:
- 889 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance  
890 with the conditions of the parole or probation agreement;
- 891 (b) investigating or apprehending any offender who has escaped from the custody of the  
892 department or absconded from supervision;
- 893 (c) supervising any offender during transportation; or
- 894 (d) collecting DNA specimens when the specimens are required under Section 53-10-404.
- 895 (6) (a) (i) A monthly supervision fee of \$30 shall be collected from each offender on  
896 probation or parole.
- 897 (ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the  
898 department upon a showing by the offender that imposition would create a  
899 substantial hardship or if the offender owes restitution to a victim.
- 900 (b) (i) The department shall make rules in accordance with Title 63G, Chapter 3,  
901 Utah Administrative Rulemaking Act, specifying the criteria for suspension or  
902 waiver of the supervision fee and the circumstances under which an offender may  
903 request a hearing.
- 904 (ii) In determining whether the imposition of the supervision fee would constitute a  
905 substantial hardship, the department shall consider the financial resources of the  
906 offender and the burden that the fee would impose, with regard to the offender's  
907 other obligations.
- 908 (7) (a) For offenders placed on probation under Section 77-18-105 or parole under  
909 Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019,  
910 the department shall establish a program allowing an offender to earn credits for the

- 911 offender's compliance with the terms of the offender's probation or parole, which  
 912 shall be applied to reducing the period of probation or parole as provided in this  
 913 Subsection (7).
- 914 (b) The program shall provide that an offender earns a reduction credit of 30 days from  
 915 the offender's period of probation or parole for each month the offender completes  
 916 without any violation of the terms of the offender's probation or parole agreement,  
 917 including the case action plan.
- 918 (c) The department shall maintain a record of credits earned by an offender under this  
 919 Subsection (7) and shall request from the court or the Board of Pardons and Parole  
 920 the termination of probation or parole not fewer than 30 days prior to the termination  
 921 date that reflects the credits earned under this Subsection (7).
- 922 (d) This Subsection (7) does not prohibit the department from requesting a termination  
 923 date earlier than the termination date established by earned credits under Subsection  
 924 (7)(c).
- 925 (e) The court or the Board of Pardons and Parole shall terminate an offender's probation  
 926 or parole upon completion of the period of probation or parole accrued by time  
 927 served and credits earned under this Subsection (7) unless the court or the Board of  
 928 Pardons and Parole finds that termination would interrupt the completion of a  
 929 necessary treatment program, in which case the termination of probation or parole  
 930 shall occur when the treatment program is completed.
- 931 (f) The department shall report annually to the State Commission on Criminal and  
 932 Juvenile Justice on or before August 31:
- 933 (i) the number of offenders who have earned probation or parole credits under this  
 934 Subsection (7) in one or more months of the preceding fiscal year and the  
 935 percentage of the offenders on probation or parole during that time that this  
 936 number represents;
- 937 (ii) the average number of credits earned by those offenders who earned credits;
- 938 (iii) the number of offenders who earned credits by county of residence while on  
 939 probation or parole;
- 940 (iv) the cost savings associated with sentencing reform programs and practices; and
- 941 (v) a description of how the savings will be invested in treatment and  
 942 early-intervention programs and practices at the county and state levels.

943 Section 18. Section **64-13g-102** is amended to read:

944 **64-13g-102 . Adult Probation and Parole Employment Incentive Program.**

- 945 (1) There is created the Adult Probation and Parole Employment Incentive Program.
- 946 (2) The department and the office shall implement the program in accordance with the  
947 requirements of this chapter.
- 948 (3) Beginning July 2026, and each July after 2026, the department shall calculate and report  
949 to the office, for the preceding fiscal year, for each region and statewide:
- 950 (a) the parole employment rate and the average length of employment of individuals on  
951 parole;
- 952 (b) the probation employment rate and average length of employment of individuals on  
953 felony probation;
- 954 (c) the recidivism percentage, using applicable recidivism metrics described in  
955 Subsections [~~63M-7-102(2) and (4)~~] 63M-7-102(1) and (3);
- 956 (d) the number and percentage of individuals who successfully complete parole or  
957 felony probation;
- 958 (e) if the recidivism percentage described in Subsection (3)(c) represents a decrease in  
959 the recidivism percentage when compared to the fiscal year immediately preceding  
960 the fiscal year to which the recidivism percentage described in Subsection (3)(c)  
961 relates, the estimated costs of incarceration savings to the state, based on the marginal  
962 cost of incarceration;
- 963 (f) the number of individuals who successfully complete parole and, during the entire six  
964 months before the day on which the individuals' parole ends, held eligible  
965 employment; and
- 966 (g) the number of individuals who successfully complete felony probation and, during  
967 the entire six months before the day on which the individuals' parole ended, held  
968 eligible employment.
- 969 (4) In addition to the information described in Subsection (3), the department shall report,  
970 for each region, the number and types of parole or probation programs that were created,  
971 replaced, or discontinued during the preceding fiscal year.
- 972 (5) After receiving the information described in Subsections (3) and (4), the office, in  
973 consultation with the department, shall, for each region:
- 974 (a) add the region's baseline parole employment rate and the region's baseline probation  
975 employment rate;
- 976 (b) add the region's parole employment rate and the region's probation employment rate;
- 977 (c) subtract the sum described in Subsection (5)(a) from the sum described in Subsection  
978 (5)(b); and

- 979 (d) (i) if the rate difference described in Subsection (5)(c) is zero or less than zero,  
980 assign an employment incentive payment of zero to the region; or  
981 (ii) except as provided in Subsection (7), if the rate difference described in  
982 Subsection (5)(c) is greater than zero, assign an employment incentive payment to  
983 the region by:  
984 (A) multiplying the rate difference by the average daily population for that region;  
985 and  
986 (B) multiplying the product of the calculation described in Subsection  
987 (5)(d)(ii)(A) by \$2,500.
- 988 (6) In addition to the employment incentive payment described in Subsection (5), after  
989 receiving the information described in Subsections (3) and (4), the office, in consultation  
990 with the department, shall, for each region, multiply the sum of the numbers described in  
991 Subsections (3)(f) and (g) for the region by \$2,500 to determine the end-of-supervision  
992 employment incentive payment for the region.
- 993 (7) The employment incentive payment, or end-of-supervision employment supervision  
994 payment, for a region is zero if the recidivism percentage for the region, described in  
995 Subsection (3)(c), represents an increase in the recidivism percentage when compared to  
996 the fiscal year immediately preceding the fiscal year to which the recidivism percentage  
997 for the region, described in Subsection (3)(c), relates.
- 998 (8) Upon determining an employment incentive payment for a region in accordance with  
999 Subsections (5)(d)(ii), (6), and (7), the office shall authorize distribution, from the  
1000 restricted account, of the incentive payment as follows:
- 1001 (a) 15% of the payment may be used by the department for expenses related to  
1002 administering the program; and  
1003 (b) 85% of the payment shall be used by the region to improve and expand supervision  
1004 and rehabilitative services to individuals on parole or adult probation, including by:  
1005 (i) implementing and expanding evidence-based practices for risk and needs  
1006 assessments for individuals;  
1007 (ii) implementing and expanding intermediate sanctions, including mandatory  
1008 community service, home detention, day reporting, restorative justice programs,  
1009 and furlough programs;  
1010 (iii) expanding the availability of evidence-based practices for rehabilitation  
1011 programs, including drug and alcohol treatment, mental health treatment, anger  
1012 management, cognitive behavior programs, and job training and other

- 1013 employment services;
- 1014 (iv) hiring additional officers, contractors, or other personnel to implement
- 1015 evidence-based practices for rehabilitative and vocational programing;
- 1016 (v) purchasing and adopting new technologies or equipment that are relevant to, and
- 1017 enhance, supervision, rehabilitation, or vocational training; or
- 1018 (vi) evaluating the effectiveness of rehabilitation and supervision programs and
- 1019 ensuring program fidelity.

- 1020 (9) (a) The report described in Subsections (3) and (4) is a public record.
- 1021 (b) The department shall maintain a complete and accurate accounting of the payment
- 1022 and use of funds under this section.
- 1023 (c) If the money in the restricted account is insufficient to make the full employment
- 1024 incentive payments or the full end-of-supervision employment incentive payments,
- 1025 the office shall authorize the payments on a prorated basis.

1026 Section 19. Section **76-3-202** is amended to read:

1027 **76-3-202 . Paroled individuals -- Termination or discharge from sentence -- Time**  
 1028 **served on parole -- Discretion of Board of Pardons and Parole.**

- 1029 (1) [Every] As described in Subsection 77-27-5(7), every individual committed to the state
- 1030 prison to serve an indeterminate term and, after December 31, 2018, released on parole
- 1031 shall complete a term of parole that extends through the expiration of the individual's
- 1032 maximum sentence unless the parole is earlier terminated by the Board of Pardons and
- 1033 Parole in accordance with the [~~supervision length guidelines established by the Utah~~
- 1034 ~~Sentencing Commission under Section 63M-7-404, as described in Subsection 77-27-5~~
- 1035 ~~(7);~~ adult sentencing and supervision length guidelines, as defined in Section
- 1036 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law.
- 1037 (2) (a) Except as provided in Subsection (2)(b), [every] an individual committed to the
- 1038 state prison to serve an indeterminate term and released on parole on or after October
- 1039 1, 2015, but before January 1, 2019, shall, upon completion of three years on parole
- 1040 outside of confinement and without violation, be terminated from the individual's
- 1041 sentence unless the parole is earlier terminated by the Board of Pardons and Parole or
- 1042 is terminated pursuant to Section 64-13-21.
- 1043 (b) [Every] An individual committed to the state prison to serve an indeterminate term
- 1044 and later released on parole on or after July 1, 2008, but before January 1, 2019, and
- 1045 who was convicted of [~~any~~] a felony offense under Chapter 5, Offenses Against the
- 1046 Individual, or [~~any~~] an attempt, conspiracy, or solicitation to commit [~~any of these~~

1047           felony offenses] the offense, shall complete a term of parole that extends through the  
1048           expiration of the individual's maximum sentence, unless the parole is earlier  
1049           terminated by the Board of Pardons and Parole.

1050   (3) [~~Every~~] An individual convicted of a second degree felony for violating Section 76-5-404,  
1051   forcible sexual abuse; Section 76-5-404.1, sexual abuse of a child; or Section 76-5-404.3,  
1052   aggravated sexual abuse of a child; or attempting, conspiring, or soliciting the  
1053   commission of a violation of any of those sections, and who is paroled before July 1,  
1054   2008, shall, upon completion of 10 years parole outside of confinement and without  
1055   violation, be terminated from the sentence unless the individual is earlier terminated by  
1056   the Board of Pardons and Parole.

1057   (4) An individual who violates the terms of parole, while serving parole, for any offense  
1058   under Subsection (1), (2), or (3), shall at the discretion of the Board of Pardons and  
1059   Parole be recommitted to prison to serve the portion of the balance of the term as  
1060   determined by the Board of Pardons and Parole, but not to exceed the maximum term.

1061   (5) An individual paroled following a former parole revocation may not be discharged from  
1062   the individual's sentence until:

1063   (a) the individual has served the applicable period of parole under this section outside of  
1064   confinement;

1065   (b) the individual's maximum sentence has expired; or

1066   (c) the Board of Pardons and Parole orders the individual to be discharged from the  
1067   sentence.

1068   (6) (a) All time served on parole, outside of confinement and without violation,  
1069   constitutes service toward the total sentence.

1070   (b) Any time an individual spends outside of confinement after commission of a parole  
1071   violation does not constitute service toward the total sentence unless the individual is  
1072   exonerated at a parole revocation hearing.

1073   (c) (i) Any time an individual spends in confinement awaiting a hearing before the  
1074   Board of Pardons and Parole or a decision by the board concerning revocation of  
1075   parole constitutes service toward the total sentence.

1076   (ii) In the case of exoneration by the board, the time spent is included in computing  
1077   the total parole term.

1078   (7) When a parolee causes the parolee's absence from the state without authority from the  
1079   Board of Pardons and Parole or avoids or evades parole supervision, the period of  
1080   absence, avoidance, or evasion tolls the parole period.



- 1081 (8) (a) While on parole, time spent in confinement outside the state may not be credited  
1082 toward the service of any Utah sentence.
- 1083 (b) Time in confinement outside the state or in the custody of any tribal authority or the  
1084 United States government for a conviction obtained in another jurisdiction tolls the  
1085 expiration of the Utah sentence.
- 1086 (9) This section does not preclude the Board of Pardons and Parole from paroling or  
1087 discharging an inmate at any time within the discretion of the Board of Pardons and  
1088 Parole unless otherwise specifically provided by law.
- 1089 (10) A parolee sentenced to lifetime parole may petition the Board of Pardons and Parole  
1090 for termination of lifetime parole.
- 1091 Section 20. Section **76-5-102.1** is amended to read:
- 1092 **76-5-102.1 . Negligently operating a vehicle resulting in injury.**
- 1093 (1) (a) As used in this section:
- 1094 (i) "Controlled substance" means the same as that term is defined in Section 58-37-2.  
1095 (ii) "Drug" means the same as that term is defined in Section 76-5-207.  
1096 (iii) "Negligent" or "negligence" means the same as that term is defined in Section  
1097 76-5-207.  
1098 (iv) "Vehicle" means the same as that term is defined in Section 41-6a-501.
- 1099 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 1100 (2) An actor commits negligently operating a vehicle resulting in injury if the actor:
- 1101 (a) (i) operates a vehicle in a negligent manner causing bodily injury to another; and  
1102 (ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical  
1103 test shows that the actor has a blood or breath alcohol concentration of .05  
1104 grams or greater at the time of the test;  
1105 (B) is under the influence of alcohol, a drug, or the combined influence of alcohol  
1106 and a drug to a degree that renders the actor incapable of safely operating a  
1107 vehicle; or  
1108 (C) has a blood or breath alcohol concentration of .05 grams or greater at the time  
1109 of operation; or
- 1110 (b) (i) operates a vehicle in a criminally negligent manner causing bodily injury to  
1111 another; and  
1112 (ii) has in the actor's body any measurable amount of a controlled substance.
- 1113 (3) Except as provided in Subsection (4), a violation of Subsection (2) is:
- 1114 (a) (i) a class A misdemeanor; or

- 1115 (ii) a third degree felony if the bodily injury is serious bodily injury; and  
1116 (b) a separate offense for each victim suffering bodily injury as a result of the actor's  
1117 violation of this section, regardless of whether the injuries arise from the same  
1118 episode of driving.
- 1119 (4) An actor is not guilty of negligently operating a vehicle resulting in injury under  
1120 Subsection (2)(b) if:
- 1121 (a) the controlled substance was obtained under a valid prescription or order, directly  
1122 from a practitioner while acting in the course of the practitioner's professional  
1123 practice, or as otherwise authorized by Title 58, Occupations and Professions;  
1124 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or  
1125 (c) the actor possessed, in the actor's body, a controlled substance listed in Section  
1126 58-37-4.2 if:
- 1127 (i) the actor is the subject of medical research conducted by a holder of a valid license  
1128 to possess controlled substances under Section 58-37-6; and  
1129 (ii) the substance was administered to the actor by the medical researcher.
- 1130 (5) (a) A judge imposing a sentence under this section may consider:
- 1131 (i) the ~~[sentencing guidelines developed in accordance with Section 63M-7-404]~~ adult  
1132 sentencing and supervision length guidelines, as defined in Section 63M-7-401.1;  
1133 (ii) the defendant's history;  
1134 (iii) the facts of the case;  
1135 (iv) aggravating and mitigating factors; or  
1136 (v) any other relevant fact.
- 1137 (b) The judge may not impose a lesser sentence than would be required for a conviction  
1138 based on the defendant's history under Section 41-6a-505.
- 1139 (c) The standards for chemical breath analysis under Section 41-6a-515 and the  
1140 provisions for the admissibility of chemical test results under Section 41-6a-516  
1141 apply to determination and proof of blood alcohol content under this section.
- 1142 (d) A calculation of blood or breath alcohol concentration under this section shall be  
1143 made in accordance with Subsection 41-6a-502(3).
- 1144 (e) Except as provided in Subsection (4), the fact that an actor charged with violating  
1145 this section is or has been legally entitled to use alcohol or a drug is not a defense.
- 1146 (f) Evidence of a defendant's blood or breath alcohol content or drug content is  
1147 admissible except if prohibited by the Utah Rules of Evidence, the United States  
1148 Constitution, or the Utah Constitution.

1149 (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense  
1150 described in this section may not be held in abeyance.

1151 Section 21. Section **76-5-207** is amended to read:

1152 **76-5-207 . Negligently operating a vehicle resulting in death -- Penalties --**

1153 **Evidence.**

1154 (1) (a) As used in this section:

1155 (i) "Controlled substance" means the same as that term is defined in Section 58-37-2.

1156 (ii) "Criminally negligent" means the same as that term is described in Subsection  
1157 76-2-103(4).

1158 (iii) "Drug" means:

1159 (A) a controlled substance;

1160 (B) a drug as defined in Section 58-37-2; or

1161 (C) a substance that, when knowingly, intentionally, or recklessly taken into the  
1162 human body, can impair the ability of an individual to safely operate a vehicle.

1163 (iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that  
1164 degree of care that reasonable and prudent persons exercise under like or similar  
1165 circumstances.

1166 (v) "Vehicle" means the same as that term is defined in Section 41-6a-501.

1167 (b) Terms defined in Section 76-1-101.5 apply to this section.

1168 (2) An actor commits negligently operating a vehicle resulting in death if the actor:

1169 (a) (i) operates a vehicle in a negligent or criminally negligent manner causing the  
1170 death of another individual;

1171 (ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical  
1172 test shows that the actor has a blood or breath alcohol concentration of .05  
1173 grams or greater at the time of the test;

1174 (B) is under the influence of alcohol, any drug, or the combined influence of  
1175 alcohol and any drug to a degree that renders the actor incapable of safely  
1176 operating a vehicle; or

1177 (C) has a blood or breath alcohol concentration of .05 grams or greater at the time  
1178 of operation; or

1179 (b) (i) operates a vehicle in a criminally negligent manner causing death to another;  
1180 and

1181 (ii) has in the actor's body any measurable amount of a controlled substance.

1182 (3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty of:

- 1183 (a) a second degree felony; and  
1184 (b) a separate offense for each victim suffering death as a result of the actor's violation  
1185 of this section, regardless of whether the deaths arise from the same episode of  
1186 driving.
- 1187 (4) An actor is not guilty of a violation of negligently operating a vehicle resulting in death  
1188 under Subsection (2)(b) if:
- 1189 (a) the controlled substance was obtained under a valid prescription or order, directly  
1190 from a practitioner while acting in the course of the practitioner's professional  
1191 practice, or as otherwise authorized by Title 58, Occupations and Professions;  
1192 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or  
1193 (c) the actor possessed, in the actor's body, a controlled substance listed in Section  
1194 58-37-4.2 if:
- 1195 (i) the actor is the subject of medical research conducted by a holder of a valid license  
1196 to possess controlled substances under Section 58-37-6; and  
1197 (ii) the substance was administered to the actor by the medical researcher.
- 1198 (5) (a) A judge imposing a sentence under this section may consider:
- 1199 (i) the ~~[sentencing guidelines developed in accordance with Section 63M-7-404]~~ adult  
1200 sentencing and supervision length guidelines, as defined in Section 63M-7-401.1;  
1201 (ii) the defendant's history;  
1202 (iii) the facts of the case;  
1203 (iv) aggravating and mitigating factors; or  
1204 (v) any other relevant fact.
- 1205 (b) The judge may not impose a lesser sentence than would be required for a conviction  
1206 based on the defendant's history under Section 41-6a-505.
- 1207 (c) The standards for chemical breath analysis as provided by Section 41-6a-515 and the  
1208 provisions for the admissibility of chemical test results as provided by Section  
1209 41-6a-516 apply to determination and proof of blood alcohol content under this  
1210 section.
- 1211 (d) A calculation of blood or breath alcohol concentration under this section shall be  
1212 made in accordance with Subsection 41-6a-502(3).
- 1213 (e) Except as provided in Subsection (4), the fact that an actor charged with violating  
1214 this section is or has been legally entitled to use alcohol or a drug is not a defense.
- 1215 (f) Evidence of a defendant's blood or breath alcohol content or drug content is  
1216 admissible except when prohibited by the Utah Rules of Evidence, the United States

1217 Constitution, or the Utah Constitution.

1218 (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense  
1219 described in this section may not be held in abeyance.

1220 Section 22. Section **77-2a-2** is amended to read:

1221 **77-2a-2 . Plea in abeyance agreement -- Negotiation -- Contents -- Terms of**  
1222 **agreement -- Waiver of time for sentencing.**

1223 (1) At any time after acceptance of a plea of guilty or no contest but before entry of  
1224 judgment of conviction and imposition of sentence, the court may, upon motion of both  
1225 the prosecuting attorney and the defendant, hold the plea in abeyance and not enter  
1226 judgment of conviction against the defendant nor impose sentence upon the defendant  
1227 within the time periods contained in Rule 22(a), Utah Rules of Criminal Procedure.

1228 (2) A defendant shall be represented by counsel during negotiations for a plea in abeyance  
1229 and at the time of acknowledgment and affirmation of any plea in abeyance agreement  
1230 unless the defendant knowingly and intelligently waives the defendant's right to counsel.

1231 (3) A defendant has the right to be represented by counsel at any court hearing relating to a  
1232 plea in abeyance agreement.

1233 (4) (a) Any plea in abeyance agreement entered into between the prosecution and the  
1234 defendant and approved by the court shall include a full, detailed recitation of the  
1235 requirements and conditions agreed to by the defendant and the reason for requesting  
1236 the court to hold the plea in abeyance.

1237 (b) If the plea is to a felony or any combination of misdemeanors and felonies, the  
1238 agreement shall be in writing and shall, before acceptance by the court, be executed  
1239 by the prosecuting attorney, the defendant, and the defendant's counsel in the  
1240 presence of the court.

1241 (5) (a) Except as provided in Subsection (5)(b), a plea may not be held in abeyance for a  
1242 period longer than 18 months if the plea is to any class of misdemeanor or longer  
1243 than three years if the plea is to any degree of felony or to any combination of  
1244 misdemeanors and felonies.

1245 (b) (i) For a plea in abeyance agreement that [~~Adult Probation and Parole~~] the  
1246 Department of Corrections supervises, the plea may not be held in abeyance for a  
1247 period longer than the initial term of probation required under the [~~supervision~~  
1248 ~~length guidelines described in Section 63M-7-404~~] adult sentencing and  
1249 supervision length guidelines, as defined in Section 63M-7-401.1, if the initial  
1250 term of probation is shorter than the period required under Subsection (5)(a).

- 1251 (ii) Subsection (5)(b)(i) does not:
- 1252 (A) apply to a plea that is held in abeyance in a drug court created under Title
- 1253 78A, Chapter 5, Part 2, Drug Court, or a problem solving court approved by
- 1254 the Judicial Council; or
- 1255 (B) prohibit court supervision of a plea in abeyance agreement after the day on
- 1256 which the [~~Adult Probation and Parole~~] Department of Corrections supervision
- 1257 described in Subsection (5)(b)(i) ends and before the day on which the plea in
- 1258 abeyance agreement ends.
- 1259 (6) Notwithstanding Subsection (5), a plea may be held in abeyance for up to two years if
- 1260 the plea is to any class of misdemeanor and the plea in abeyance agreement includes a
- 1261 condition that the defendant participate in a problem solving court approved by the
- 1262 Judicial Council.
- 1263 (7) A plea in abeyance agreement may not be approved unless the defendant, before the
- 1264 court, and any written agreement, knowingly and intelligently waives time for
- 1265 sentencing as designated in Rule 22(a), Utah Rules of Criminal Procedure.
- 1266 Section 23. Section **77-18-105** is amended to read:
- 1267 **77-18-105 . Pleas held in abeyance -- Suspension of a sentence -- Probation --**
- 1268 **Supervision -- Terms and conditions of probation -- Time periods for probation --**
- 1269 **Bench supervision for payments on criminal accounts receivable.**
- 1270 (1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in
- 1271 abeyance agreement, the court may hold the plea in abeyance:
- 1272 (a) in accordance with Chapter 2a, Pleas in Abeyance; and
- 1273 (b) under the terms of the plea in abeyance agreement.
- 1274 (2) If a defendant is convicted, the court:
- 1275 (a) shall impose a sentence in accordance with Section 76-3-201; and
- 1276 (b) subject to Subsection (5), may suspend the execution of the sentence and place the
- 1277 defendant:
- 1278 (i) on probation under the supervision of the department;
- 1279 (ii) on probation under the supervision of an agency of a local government or a
- 1280 private organization; or
- 1281 (iii) on court probation under the jurisdiction of the sentencing court.
- 1282 (3) (a) The legal custody of all probationers under the supervision of the department is
- 1283 with the department.
- 1284 (b) The legal custody of all probationers under the jurisdiction of the sentencing court is

- 1285           vested as ordered by the court.
- 1286           (c) The court has continuing jurisdiction over all probationers.
- 1287 (4) (a) Court probation may include an administrative level of services, including
- 1288           notification to the sentencing court of scheduled periodic reviews of the probationer's
- 1289           compliance with conditions.
- 1290           (b) Supervised probation services provided by the department, an agency of a local
- 1291           government, or a private organization shall specifically address the defendant's risk
- 1292           of reoffending as identified by a screening or an assessment.
- 1293           (c) If a court orders supervised probation and determines that a public probation
- 1294           provider is unavailable or inappropriate to supervise the defendant, the court shall
- 1295           make available to the defendant the list of private probation providers prepared by a
- 1296           criminal justice coordinating council under Section 17-55-201.
- 1297 (5) (a) Before ordering supervised probation, the court shall consider the supervision
- 1298           costs to the defendant for each entity that can supervise the defendant.
- 1299           (b) (i) A court may order an agency of a local government to supervise the probation
- 1300           for an individual convicted of any crime if:
- 1301                   (A) the agency has the capacity to supervise the individual; and
- 1302                   (B) the individual's supervision needs will be met by the agency.
- 1303           (ii) A court may only order:
- 1304                   (A) the department to supervise the probation for an individual convicted of a
- 1305                   class A misdemeanor or any felony; or
- 1306                   (B) a private organization to supervise the probation for an individual convicted of
- 1307                   a class A, B, or C misdemeanor or an infraction.
- 1308           (c) A court may not order a specific private organization to supervise an individual
- 1309           unless there is only one private organization that can provide the specific supervision
- 1310           services required to meet the individual's supervision needs.
- 1311 (6) (a) If a defendant is placed on probation, the court may order the defendant as a
- 1312           condition of the defendant's probation:
- 1313                   (i) to provide for the support of persons for whose support the defendant is legally
- 1314                   liable;
- 1315                   (ii) to participate in available treatment programs, including any treatment program in
- 1316                   which the defendant is currently participating if the program is acceptable to the
- 1317                   court;
- 1318                   (iii) be voluntarily admitted to the custody of the Division of Substance Abuse and

- 1319 Mental Health for treatment at the Utah State Hospital in accordance with Section  
1320 77-18-106;
- 1321 (iv) if the defendant is on probation for a felony offense, to serve a period of time as  
1322 an initial condition of probation that does not exceed one year in a county jail  
1323 designated by the department, after considering any recommendation by the court  
1324 as to which jail the court finds most appropriate;
- 1325 (v) to serve a term of home confinement in accordance with Section 77-18-107;
- 1326 (vi) to participate in compensatory service programs, including the compensatory  
1327 service program described in Section 76-3-410;
- 1328 (vii) to pay for the costs of investigation, probation, or treatment services;
- 1329 (viii) to pay restitution to a victim with interest in accordance with Chapter 38b,  
1330 Crime Victims Restitution Act; or
- 1331 (ix) to comply with other terms and conditions the court considers appropriate to  
1332 ensure public safety or increase a defendant's likelihood of success on probation.
- 1333 (b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a  
1334 defendant to include a period of time that is served in a county jail immediately  
1335 before the termination of probation as long as that period of time does not exceed  
1336 one year.
- 1337 (ii) If a defendant is ordered to serve time in a county jail as a sanction for a  
1338 probation violation, the one-year limitation described in Subsection (6)(a)(iv) or  
1339 (6)(b)(i) does not apply to the period of time that the court orders the defendant to  
1340 serve in a county jail under this Subsection (6)(b)(ii).
- 1341 (7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on  
1342 probation after December 31, 2018:
- 1343 (i) may not exceed the individual's maximum sentence;
- 1344 (ii) shall be for a period of time that is in accordance with the ~~[supervision length~~  
1345 ~~guidelines established by the Utah Sentencing Commission under Section~~  
1346 ~~63M-7-404]~~ adult sentencing and supervision length guidelines, as defined in  
1347 Section 63M-7-401.1, to the extent the guidelines are consistent with the  
1348 requirements of the law; and
- 1349 (iii) shall be terminated in accordance with the ~~[supervision length guidelines~~  
1350 ~~established by the Utah Sentencing Commission under Section 63M-7-404]~~ adult  
1351 sentencing and supervision length guidelines, as defined in Section 63M-7-401.1,  
1352 to the extent the guidelines are consistent with the requirements of the law.



- 1353 (b) Probation of an individual placed on probation after December 31, 2018, whose  
1354 maximum sentence is one year or less, may not exceed 36 months.
- 1355 (c) Probation of an individual placed on probation on or after October 1, 2015, but  
1356 before January 1, 2019, may be terminated at any time at the discretion of the court  
1357 or upon completion without violation of 36 months probation in felony or class A  
1358 misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions,  
1359 or as allowed in accordance with Section 64-13-21 regarding earned credits.
- 1360 (d) This Subsection (7) does not apply to the probation of an individual convicted of an  
1361 offense for criminal nonsupport under Section 76-7-201.
- 1362 (8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal  
1363 accounts receivable for the defendant upon termination of the probation period for  
1364 the defendant under Subsection (7), the court may require the defendant to continue  
1365 to make payments towards the criminal accounts receivable in accordance with the  
1366 payment schedule established by the court under Section 77-32b-103.
- 1367 (b) A court may not require the defendant to make payments as described in Subsection  
1368 (8)(a) beyond the expiration of the defendant's sentence.
- 1369 (c) If the court requires a defendant to continue to pay in accordance with the payment  
1370 schedule for the criminal accounts receivable under this Subsection (8) and the  
1371 defendant defaults on the criminal accounts receivable, the court shall proceed with  
1372 an order for a civil judgment of restitution and a civil accounts receivable for the  
1373 defendant as described in Section 77-18-114.
- 1374 (d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's  
1375 own motion, the court may require a defendant to show cause as to why the  
1376 defendant's failure to pay in accordance with the payment schedule should not be  
1377 treated as contempt of court.
- 1378 (ii) A court may hold a defendant in contempt for failure to make payments for a  
1379 criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3,  
1380 Contempt.
- 1381 (e) This Subsection (8) does not apply to the probation of an individual convicted of an  
1382 offense for criminal nonsupport under Section 76-7-201.
- 1383 (9) When making any decision regarding probation, the court shall consider information  
1384 provided by the Department of Corrections regarding a defendant's individual case  
1385 action plan, including any progress the defendant has made in satisfying the case action  
1386 plan's completion requirements.

1387 Section 24. Section **77-18-108** is amended to read:

1388 **77-18-108 . Termination, revocation, modification, or extension of probation --**

1389 **Violation of probation -- Hearing on violation.**

1390 (1) (a) The department shall send a written notice to the court:

1391 (i) when the department is recommending termination of supervision for a defendant;

1392 or

1393 (ii) before a defendant's supervision will be terminated by law.

1394 (b) The written notice under this Subsection (1) shall include:

1395 (i) a probation progress report; and

1396 (ii) if the department is responsible for the collection of the defendant's criminal  
1397 accounts receivable, a summary of the criminal accounts receivable, including the  
1398 amount of restitution ordered and the amount of restitution that has been paid.

1399 (c) (i) Upon receipt of the written notice under Subsection (1)(a), the court shall:

1400 (A) file the written notice on the docket; and

1401 (B) provide notice to all parties in the criminal case.

1402 (ii) A party shall have a reasonable opportunity to respond to the written notice under  
1403 Subsection (1)(a).

1404 (d) If a defendant's probation is being terminated, and the defendant's criminal accounts  
1405 receivable has an unpaid balance or there is any outstanding debt with the  
1406 department, the department shall send a written notice to the Office of State Debt  
1407 Collection with a summary of the defendant's criminal accounts receivable, including  
1408 the amount of restitution ordered and the amount of restitution that has been paid.

1409 (2) (a) The court may modify the defendant's probation in accordance with the [  
1410 ~~supervision length guidelines and the graduated and evidence-based responses and~~  
1411 ~~graduated incentives developed by the Utah Sentencing Commission under Section~~  
1412 ~~63M-7-404]~~ adult sentencing and supervision length guidelines, as defined in Section  
1413 63M-7-401.1.

1414 (b) The court may not:

1415 (i) extend the length of a defendant's probation, except upon:

1416 (A) waiver of a hearing by the defendant; or

1417 (B) a hearing and a finding by the court that the defendant has violated the terms  
1418 of probation;

1419 (ii) revoke a defendant's probation, except upon a hearing and a finding by the court  
1420 that the terms of probation have been violated; or

- 1421 (iii) terminate a defendant's probation before expiration of the probation period until  
1422 the court:
- 1423 (A) reviews the docket to determine whether the defendant owes a balance on the  
1424 defendant's criminal accounts receivable; and
- 1425 (B) enters a finding of whether the defendant owes restitution under Section  
1426 77-38b-205.
- 1427 (c) The court may find under Subsection (2)(b)(iii)(B) that the defendant does not owe  
1428 restitution if no request for restitution has been filed with the court.
- 1429 (3) (a) Upon the filing of an affidavit, or an unsworn written declaration executed in  
1430 substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations  
1431 Act, alleging with particularity facts asserted to constitute violation of the terms of a  
1432 defendant's probation, the court shall determine if the affidavit or unsworn written  
1433 declaration establishes probable cause to believe that revocation, modification, or  
1434 extension of the defendant's probation is justified.
- 1435 (b) (i) If the court determines there is probable cause, the court shall order that the  
1436 defendant be served with:
- 1437 (A) a warrant for the defendant's arrest or a copy of the affidavit or unsworn  
1438 written declaration; and
- 1439 (B) an order to show cause as to why the defendant's probation should not be  
1440 revoked, modified, or extended.
- 1441 (ii) The order under Subsection (3)(b)(i)(B) shall:
- 1442 (A) be served upon the defendant at least five days before the day on which the  
1443 hearing is held;
- 1444 (B) specify the time and place of the hearing; and
- 1445 (C) inform the defendant of the right to be represented by counsel at the hearing,  
1446 the right to have counsel appointed if the defendant is indigent, and the right to  
1447 present evidence at the hearing.
- 1448 (iii) The defendant shall show good cause for a continuance of the hearing.
- 1449 (c) At the hearing, the defendant shall admit or deny the allegations of the affidavit or  
1450 unsworn written declaration.
- 1451 (d) (i) If the defendant denies the allegations of the affidavit or unsworn written  
1452 declaration, the prosecuting attorney shall present evidence on the allegations.
- 1453 (ii) If the affidavit, or unsworn written declaration, alleges that a defendant is  
1454 delinquent, or in default, on a criminal accounts receivable, the prosecuting

- 1455 attorney shall present evidence to establish, by a preponderance of the evidence,  
1456 that the defendant:
- 1457 (A) was aware of the defendant's obligation to pay the balance of the criminal  
1458 accounts receivable;
- 1459 (B) failed to pay on the balance of the criminal accounts receivable as ordered by  
1460 the court; and
- 1461 (C) had the ability to make a payment on the balance of the criminal accounts  
1462 receivable if the defendant opposes an order to show cause, in writing, and  
1463 presents evidence that the defendant was unable to make a payment on the  
1464 balance of the criminal accounts receivable.
- 1465 (e) The persons who have given adverse information on which the allegations are based  
1466 shall be presented as witnesses subject to questioning by the defendant, unless the  
1467 court for good cause otherwise orders.
- 1468 (f) At the hearing, the defendant may:
- 1469 (i) call witnesses;
- 1470 (ii) appear and speak in the defendant's own behalf; and
- 1471 (iii) present evidence.
- 1472 (g) (i) After the hearing, the court shall make findings of fact.
- 1473 (ii) Upon a finding that the defendant violated the terms of the defendant's probation,  
1474 the court may order the defendant's probation terminated, revoked, modified,  
1475 continued, or reinstated for all or a portion of the original term of probation.
- 1476 (4) (a) (i) Except as provided in Subsection 77-18-105(7), the court may not require a  
1477 defendant to remain on probation for a period of time that exceeds the length of  
1478 the defendant's maximum sentence.
- 1479 (ii) Except as provided in Subsection 77-18-105(7), if a defendant's probation is  
1480 revoked and later reinstated, the total time of all periods of probation that the  
1481 defendant serves, in relation to the same sentence, may not exceed the defendant's  
1482 maximum sentence.
- 1483 (b) If the court orders a sanction for a defendant who violated terms of probation, the  
1484 court may:
- 1485 (i) order a period of incarceration that is consistent with the ~~[guidelines established~~  
1486 ~~by the Utah Sentencing Commission in accordance with Subsection 63M-7-404(4)]~~  
1487 adult sentencing and supervision length guidelines, as defined in Section  
1488 63M-7-401.1;

- 1489 (ii) order a period of incarceration that deviates from the guidelines with an  
1490 explanation for the deviation on the record;
- 1491 (iii) order treatment services that are immediately available in the community for a  
1492 defendant that needs substance abuse or mental health treatment, as determined by  
1493 a screening and assessment;
- 1494 (iv) execute the sentence previously imposed; or
- 1495 (v) order any other appropriate sanction.
- 1496 (c) If the defendant had, before the imposition of a term of incarceration or the execution  
1497 of the previously imposed sentence under this section, served time in jail as a term of  
1498 probation or due to a violation of probation, the time that the defendant served in jail  
1499 constitutes service of time toward the sentence previously imposed.
- 1500 (5) (a) Any time served by a defendant:
- 1501 (i) outside of confinement after having been charged with a probation violation, and  
1502 before a hearing to revoke probation, does not constitute service of time toward  
1503 the total probation term, unless the defendant is exonerated at a hearing to revoke  
1504 the defendant's probation;
- 1505 (ii) in confinement awaiting a hearing or a decision concerning revocation of the  
1506 defendant's probation does not constitute service of time toward the total  
1507 probation term, unless the defendant is exonerated at the hearing to revoke  
1508 probation; or
- 1509 (iii) in confinement awaiting a hearing or a decision concerning revocation of the  
1510 defendant's probation constitutes service of time toward a term of incarceration  
1511 imposed as a result of the revocation of probation or a graduated and  
1512 evidence-based response imposed under the [~~guidelines established by the Utah~~  
1513 ~~Sentencing Commission in accordance with Section 63M-7-404~~] adult sentencing  
1514 and supervision length guidelines, as defined in Section 63M-7-401.1.
- 1515 (b) The running of the probation period is tolled upon:
- 1516 (i) the filing of a report with the court alleging a violation of the terms of the  
1517 defendant's probation; or
- 1518 (ii) the issuance of an order or a warrant under Subsection (3).
- 1519 Section 25. Section **77-27-5** is amended to read:
- 1520 **77-27-5 . Board of Pardons and Parole authority.**
- 1521 (1) (a) Subject to this chapter and other laws of the state, and except for a conviction for  
1522 treason or impeachment, the board shall determine by majority decision when and

- 1523 under what conditions an offender's conviction may be pardoned or commuted.
- 1524 (b) The Board of Pardons and Parole shall determine by majority decision when and  
1525 under what conditions an offender committed to serve a sentence at a penal or  
1526 correctional facility, which is under the jurisdiction of the department, may:
- 1527 (i) be released upon parole;
- 1528 (ii) have a fine or forfeiture remitted;
- 1529 (iii) have the offender's criminal accounts receivable remitted in accordance with  
1530 Section 77-32b-105 or 77-32b-106;
- 1531 (iv) have the offender's payment schedule modified in accordance with Section  
1532 77-32b-103; or
- 1533 (v) have the offender's sentence terminated.
- 1534 (c) The board shall prioritize public safety when making a determination under  
1535 Subsection (1)(a) or (1)(b).
- 1536 (d) (i) The board may sit together or in panels to conduct hearings.
- 1537 (ii) The chair shall appoint members to the panels in any combination and in  
1538 accordance with rules made in accordance with Title 63G, Chapter 3, Utah  
1539 Administrative Rulemaking Act, by the board.
- 1540 (iii) The chair may participate on any panel and when doing so is chair of the panel.
- 1541 (iv) The chair of the board may designate the chair for any other panel.
- 1542 (e) (i) Except after a hearing before the board, or the board's appointed examiner, in  
1543 an open session, the board may not:
- 1544 (A) remit a fine or forfeiture for an offender or the offender's criminal accounts  
1545 receivable;
- 1546 (B) release the offender on parole; or
- 1547 (C) commute, pardon, or terminate an offender's sentence.
- 1548 (ii) An action taken under this Subsection (1) other than by a majority of the board  
1549 shall be affirmed by a majority of the board.
- 1550 (f) A commutation or pardon may be granted only after a full hearing before the board.
- 1551 (2) (a) In the case of any hearings, timely prior notice of the time and location of the  
1552 hearing shall be given to the offender.
- 1553 (b) The county or district attorney's office responsible for prosecution of the case, the  
1554 sentencing court, and law enforcement officials responsible for the defendant's arrest  
1555 and conviction shall be notified of any board hearings through the board's website.
- 1556 (c) Whenever possible, the victim or the victim's representative, if designated, shall be

- 1557 notified of original hearings and any hearing after that if notification is requested and  
1558 current contact information has been provided to the board.
- 1559 (d) (i) Notice to the victim or the victim's representative shall include information  
1560 provided in Section 77-27-9.5, and any related rules made by the board under that  
1561 section.
- 1562 (ii) The information under Subsection (2)(d)(i) shall be provided in terms that are  
1563 reasonable for the lay person to understand.
- 1564 (3) (a) A decision by the board is final and not subject for judicial review if the decision  
1565 is regarding:
- 1566 (i) a pardon, parole, commutation, or termination of an offender's sentence;  
1567 (ii) the modification of an offender's payment schedule for restitution; or  
1568 (iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.
- 1569 (b) Deliberative processes are not public and the board is exempt from Title 52, Chapter  
1570 4, Open and Public Meetings Act, when the board is engaged in the board's  
1571 deliberative process.
- 1572 (c) Pursuant to Subsection 63G-2-103(25)(b)(xi), records of the deliberative process are  
1573 exempt from Title 63G, Chapter 2, Government Records Access and Management  
1574 Act.
- 1575 (d) Unless it will interfere with a constitutional right, deliberative processes are not  
1576 subject to disclosure, including discovery.
- 1577 (e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.
- 1578 (4) (a) This chapter may not be construed as a denial of or limitation of the governor's  
1579 power to grant respite or reprieves in all cases of convictions for offenses against the  
1580 state, except treason or conviction on impeachment.
- 1581 (b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the  
1582 next session of the Board of Pardons and Parole.
- 1583 (c) At the next session of the board, the board:
- 1584 (i) shall continue or terminate the respite or reprieve; or  
1585 (ii) may commute the punishment or pardon the offense as provided.
- 1586 (d) In the case of conviction for treason, the governor may suspend execution of the  
1587 sentence until the case is reported to the Legislature at the Legislature's next session.
- 1588 (e) The Legislature shall pardon or commute the sentence or direct the sentence's  
1589 execution.
- 1590 (5) (a) In determining when, where, and under what conditions an offender serving a

1591 sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the  
 1592 offender's criminal accounts receivable remitted, or have the offender's sentence  
 1593 commuted or terminated, the board shall:

1594 (i) consider whether the offender has made restitution ordered by the court under  
 1595 Section 77-38b-205, or is prepared to pay restitution as a condition of any parole,  
 1596 pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a  
 1597 commutation or termination of the offender's sentence;

1598 (ii) except as provided in Subsection (5)(b), develop and use a list of criteria for  
 1599 making determinations under this Subsection (5);

1600 (iii) consider information provided by the Department of Corrections regarding an  
 1601 offender's individual case action plan; and

1602 (iv) review an offender's status within 60 days after the day on which the board  
 1603 receives notice from the Department of Corrections that the offender has  
 1604 completed all of the offender's case action plan components that relate to activities  
 1605 that can be accomplished while the offender is imprisoned.

1606 (b) The board shall determine whether to remit an offender's criminal accounts  
 1607 receivable under this Subsection (5) in accordance with Section 77-32b-105 or  
 1608 77-32b-106.

1609 (6) In determining whether parole may be terminated, the board shall consider:

1610 (a) the offense committed by the parolee; and

1611 (b) the parole period under Section 76-3-202, and in accordance with Section 77-27-13.

1612 (7) For an offender placed on parole after December 31, 2018, the board shall terminate  
 1613 parole in accordance with the ~~[supervision length guidelines established by the Utah~~  
 1614 ~~Sentencing Commission under Section 63M-7-404]~~ adult sentencing and supervision  
 1615 length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are  
 1616 consistent with the requirements of the law.

1617 Section 26. Section **77-27-10** is amended to read:

1618 **77-27-10 . Conditions of parole -- Inmate agreement to warrant -- Rulemaking --**  
 1619 **Intensive early release parole program.**

1620 (1) (a) When the Board of Pardons and Parole releases an offender on parole, it shall, in  
 1621 accordance with Section 64-13-21, issue to the parolee a certificate setting forth the  
 1622 conditions of parole, including the graduated and evidence-based responses to a  
 1623 violation of a condition of parole established ~~[by the Sentencing Commission in~~  
 1624 accordance with Section 64-13-21] in the adult sentencing and supervision length



- 1625 guidelines, as defined in Section 63M-7-401.1, which the offender shall accept and  
1626 agree to as evidenced by the offender's signature affixed to the agreement.
- 1627 (b) The parole agreement shall require that the inmate agree in writing that the board  
1628 may issue a warrant and conduct a parole revocation hearing if:
- 1629 (i) the board determines after the grant of parole that the inmate willfully provided to  
1630 the board false or inaccurate information that the board finds was significant in the  
1631 board's determination to grant parole; or
- 1632 (ii) (A) the inmate has engaged in criminal conduct prior to the granting of parole;  
1633 and  
1634 (B) the board did not have information regarding the conduct at the time parole  
1635 was granted.
- 1636 (c) (i) A copy of the agreement shall be delivered to the Department of Corrections  
1637 and a copy shall be given to the parolee.
- 1638 (ii) The original agreement shall remain with the board's file.
- 1639 (2) (a) If an offender convicted of violating or attempting to violate Section 76-5-301.1,  
1640 76-5-302, 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1,  
1641 76-5-404, 76-5-404.1, 76-5-404.3, or 76-5-405, is released on parole, the board shall  
1642 order outpatient mental health counseling and treatment as a condition of parole.
- 1643 (b) The board shall develop standards and conditions of parole under this Subsection (2)  
1644 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1645 (c) This Subsection (2) does not apply to intensive early release parole.
- 1646 (3) (a) (i) In addition to the conditions set out in Subsection (1), the board may place  
1647 offenders in an intensive early release parole program.
- 1648 (ii) [-]The board shall determine the conditions of parole which are reasonably  
1649 necessary to protect the community as well as to protect the interests of the  
1650 offender and to assist the offender to lead a law-abiding life.
- 1651 (b) The offender is eligible for this program only if the offender:
- 1652 (i) has not been convicted of a sexual offense; or  
1653 (ii) has not been sentenced pursuant to Section 76-3-406.
- 1654 (c) The department shall:
- 1655 (i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
1656 Rulemaking Act, for operation of the program;
- 1657 (ii) adopt and implement internal management policies for operation of the program;  
1658 (iii) determine whether or not to refer an offender into this program within 120 days

- 1659 from the date the offender is committed to prison by the sentencing court; and  
1660 (iv) make the final recommendation to the board regarding the placement of an  
1661 offender into the program.
- 1662 (d) The department may not consider credit for time served in a county jail awaiting trial  
1663 or sentencing when calculating the 120-day period.
- 1664 (e) The prosecuting attorney or sentencing court may refer an offender for consideration  
1665 by the department for participation in the program.
- 1666 (f) The board shall determine whether or not to place an offender into this program  
1667 within 30 days of receiving the department's recommendation.
- 1668 (4) This program shall be implemented by the department within the existing budget.
- 1669 (5) During the time the offender is on parole, the department shall collect from the offender  
1670 the monthly supervision fee authorized by Section 64-13-21.
- 1671 (6) When a parolee commits a violation of the parole agreement, the department may:
- 1672 (a) respond in accordance with the graduated and evidence-based responses established  
1673 in accordance with Section 64-13-21; or
- 1674 (b) when the graduated and evidence-based responses established in accordance with  
1675 Section 64-13-21 indicate, refer the parolee to the Board of Pardons and Parole for  
1676 revocation of parole.
- 1677 Section 27. Section **77-27-11** is amended to read:
- 1678 **77-27-11 . Revocation of parole.**
- 1679 (1) The board may revoke the parole of any individual who is found to have violated any  
1680 condition of the individual's parole.
- 1681 (2) (a) If a parolee is confined by the department or any law enforcement official for a  
1682 suspected violation of parole, the department:
- 1683 (i) shall immediately report the alleged violation to the board, by means of an  
1684 incident report; and
- 1685 (ii) make any recommendation regarding the incident.
- 1686 (b) A parolee may not be held for a period longer than 72 hours, excluding weekends  
1687 and holidays, without first obtaining a warrant.
- 1688 (3) Any member of the board may:
- 1689 (a) issue a warrant based upon a certified warrant request to a peace officer or other  
1690 persons authorized to arrest, detain, and return to actual custody a parolee; and
- 1691 (b) upon arrest of the parolee, determine, or direct the department to determine, if there  
1692 is probable cause to believe that the parolee has violated the conditions of the

- 1693 parolee's parole.
- 1694 (4) Upon a finding of probable cause, a parolee may be further detained or imprisoned  
1695 again pending a hearing by the board or the board's appointed examiner.
- 1696 (5) (a) The board or the board's appointed examiner shall conduct a hearing on the  
1697 alleged violation, and the parolee shall have written notice of the time and location of  
1698 the hearing, the alleged violation of parole, and a statement of the evidence against  
1699 the parolee.
- 1700 (b) The board or the board's appointed examiner shall provide the parolee the  
1701 opportunity:
- 1702 (i) to be present;
- 1703 (ii) to be heard;
- 1704 (iii) to present witnesses and documentary evidence;
- 1705 (iv) to confront and cross-examine adverse witnesses, absent a showing of good  
1706 cause for not allowing the confrontation; and
- 1707 (v) to be represented by counsel when the parolee is mentally incompetent or  
1708 pleading not guilty.
- 1709 (c) (i) If heard by an appointed examiner, the examiner shall make a written decision  
1710 which shall include a statement of the facts relied upon by the examiner in  
1711 determining the guilt or innocence of the parolee on the alleged violation and a  
1712 conclusion as to whether the alleged violation occurred.
- 1713 (ii) The appointed examiner shall then refer the case to the board for disposition.
- 1714 (d) (i) A final decision shall be reached by a majority vote of the sitting members of  
1715 the board.
- 1716 (ii) A parolee shall be promptly notified in writing of the board's findings and  
1717 decision.
- 1718 (6) (a) If a parolee is found to have violated the terms of parole, the board, at the board's  
1719 discretion, may:
- 1720 (i) return the parolee to parole;
- 1721 (ii) modify the payment schedule for the parolee's criminal accounts receivable in  
1722 accordance with Section 77-32b-105;
- 1723 (iii) order the parolee to pay pecuniary damages that are proximately caused by a  
1724 defendant's violation of the terms of the defendant's parole;
- 1725 (iv) order the parolee to be imprisoned, but not to exceed the maximum term of  
1726 imprisonment for the parolee's sentence; or

- 1727 (v) order any other conditions for the parolee.
- 1728 (b) If the board returns the parolee to parole, the length of parole may not be for a period  
1729 of time that exceeds the length of the parolee's maximum sentence.
- 1730 (c) If the board revokes parole for a violation and orders incarceration, the board may  
1731 impose a period of incarceration:
- 1732 (i) consistent with the [~~guidelines under Subsection 63M-7-404(5)~~] adult sentencing  
1733 and supervision length guidelines, as defined in Section 63M-7-401.1; or
- 1734 (ii) subject to Subsection (6)(a)(iv), impose a period of incarceration that differs from  
1735 the guidelines.
- 1736 (d) The following periods of time constitute service of time toward the period of  
1737 incarceration imposed under Subsection (6)(c):
- 1738 (i) time served in jail by a parolee awaiting a hearing or decision concerning  
1739 revocation of parole; and
- 1740 (ii) time served in jail by a parolee due to a violation of parole under Subsection  
1741 64-13-6(2).

1742 Section 28. Section **77-27-32** is amended to read:

1743 **77-27-32 . Reporting requirements.**

- 1744 (1) The board shall publicly display metrics on the board's website, including:
- 1745 (a) a measure of recidivism;
- 1746 (b) a measure of time under board jurisdiction;
- 1747 (c) a measure of prison releases by category;
- 1748 (d) a measure of parole revocations;
- 1749 (e) a measure of alignment of board decisions with the [~~guidelines established by the~~  
1750 ~~Sentencing Commission under Section 63M-7-404~~] adult sentencing and supervision  
1751 length guidelines, as defined in Section 63M-7-401.1; and
- 1752 (f) a measure of the aggregate reasons for departing from the guidelines described in  
1753 Subsection (1)(e).
- 1754 (2) On or before September 30 of each year, the board shall submit to the commission and  
1755 the Law Enforcement and Criminal Justice Interim Committee a report for the previous  
1756 fiscal year that summarizes the metrics in Subsection (1).

1757 Section 29. Section **80-6-307** is amended to read:

1758 **80-6-307 . Dispositional report required in minors' cases -- Exceptions.**

- 1759 (1) A juvenile probation officer, or other agency designated by the juvenile court, shall  
1760 make a dispositional report in writing in all minors' cases in which a petition has been

1761 filed, except in cases involving violations of traffic laws or ordinances, violations of  
1762 wildlife laws and boating laws, and other minor cases.

1763 (2) When preparing a dispositional report and recommendation in a minor's case, the  
1764 juvenile probation officer, or other agency designated by the juvenile court, shall  
1765 consider the juvenile disposition guidelines [~~developed in accordance with Section~~  
1766 ~~63M-7-404~~], as defined in Section 63M-7-401.1, and any other factors relevant to the  
1767 disposition designated in the juvenile disposition guidelines .

1768 (3) Where the allegations of a petition filed under Section 80-6-305 are denied, the  
1769 investigation may not be made until the juvenile court has made an adjudication.

1770 Section 30. Section **80-6-607** is amended to read:

1771 **80-6-607 . Case planning and appropriate responses.**

1772 (1) For a minor adjudicated and placed on probation under Section 80-6-702 or committed  
1773 to the division under Section 80-6-703 , a case plan shall be created and:

1774 (a) developed in collaboration with the minor and the minor's family;

1775 (b) individualized to the minor;

1776 (c) informed by the results of a validated risk and needs assessment under Section  
1777 80-6-606; and

1778 (d) tailored to the minor's offense and history.

1779 (2) (a) The Administrative Office of the Courts and the division shall develop a  
1780 statewide system of appropriate responses to guide responses to the behaviors of  
1781 minors:

1782 (i) undergoing nonjudicial adjustments;

1783 (ii) whose case is under the jurisdiction of the juvenile court; and

1784 (iii) in the custody of the division.

1785 (b) The system of responses shall include both sanctions and incentives that:

1786 (i) are swift and certain;

1787 (ii) include a continuum of community based responses for minors living at home;

1788 (iii) target a minor's criminogenic risks and needs, as determined by the results of a  
1789 validated risk and needs assessment under Section 80-6-606, and the severity of  
1790 the violation; and

1791 (iv) authorize earned discharge credits as one incentive for compliance.

1792 (c) After considering the [~~juvenile disposition guidelines established by the Sentencing~~  
1793 ~~Commission, in accordance with Section 63M-7-404~~] juvenile disposition  
1794 guidelines, as defined in Section 63M-7-401.1, the system of appropriate responses

- 1795 under Subsections (2)(a) and (b) shall be developed.
- 1796 (3) (a) A response to compliant or noncompliant behavior under Subsection (2) shall be  
1797 documented in the minor's case plan.
- 1798 (b) Documentation under Subsection (3)(a) shall include:
- 1799 (i) positive behaviors and incentives offered;
- 1800 (ii) violations and corresponding sanctions; and
- 1801 (iii) whether the minor has a subsequent violation after a sanction.
- 1802 (4) Before referring a minor to a juvenile court for judicial review, or to the authority if the  
1803 minor is under the jurisdiction of the authority, in response to a contempt filing under  
1804 Section 78A-6-353 or an order to show cause, a pattern of appropriate responses shall be  
1805 documented in the minor's case plan in accordance with Subsections (3)(a) and (b) .
- 1806 (5) Notwithstanding Subsection (4), if a minor violates a protective order or an ex parte  
1807 protective order listed in Section 78B-7-803, the violation may be filed directly with the  
1808 juvenile court.

1809 Section 31. **Repealer.**

1810 This bill repeals:

1811 Section **63M-7-403, Vacancies.**

1812 Section **63M-7-404, Purpose -- Duties.**

1813 Section 32. **Effective date.**

1814 This bill takes effect on May 1, 2024.

1815 Section 33. **Coordinating S.B. 200 with H.B. 532.**

1816 If S.B. 200, State Commission on Criminal and Juvenile Justice Amendments, and  
1817 H.B. 532, State Boards and Commissions Modifications, both pass and become law, the  
1818 Legislature intends that, on October 1, 2024, the amendments to Section 63M-7-202 in  
1819 S.B. 200 supersede the amendments to Section 63M-7-202 in H.B. 532.