

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

CRIMINAL JUSTICE MODIFICATIONS
2024 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Kirk A. Cullimore
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill amends provisions related to the criminal justice system.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Utah Sentencing Commission to review and revise, on or before October 31, 2024, supervision guidelines regarding appropriate sanctions and incentives;
- requires the Utah Sentencing Commission to establish sentencing guidelines to address habitual offenders;
- requires the Department of Corrections to create a program to provide incentives for maintaining eligible employment for certain offenders on probation or parole;
- modifies the crime of unlawful sexual activity with a minor to address a defendant who is 18 years old and enrolled in high school at the time the sexual activity occurred;
- modifies the crime of unlawful adolescent sexual activity to include an actor who is 18 years old and enrolled in high school at the time the sexual activity occurred;
- addresses the sentencing of an individual who has been previously convicted of felony offenses;
- addresses pretrial detention of certain individuals who have committed a felony offense;
- modifies the requirements for a magistrate or judge when ordering pretrial release;
- addresses the means by which the Board of Pardons and Parole notifies a victim of any hearing or decision;
- allows a victim to submit a written statement for a hearing by the Board of Pardons and Parole;
- addresses consideration of a victim's written statement by the Board of Pardons and

- 28 Parole;
- 29 ▸ addresses the information that a court and a prosecuting attorney forwards to the Board
- 30 of Pardons and Parole;
- 31 ▸ modifies the duties of a law enforcement officer with regard to a victim;
- 32 ▸ amends the requirements for a drug court program; and
- 33 ▸ makes technical and conforming changes.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 This bill provides coordination clauses.

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **63I-1-263**, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155,
41 212, 218, 249, 270, 448, 489, and 534

42 **63M-7-303**, as last amended by Laws of Utah 2023, Chapters 266, 330 and 534 and last
43 amended by Coordination Clause, Laws of Utah 2023, Chapter 330

44 **63M-7-404**, as last amended by Laws of Utah 2023, Chapter 111

45 **64-13-21**, as last amended by Laws of Utah 2022, Chapter 187

46 **76-5-401**, as last amended by Laws of Utah 2023, Chapter 123

47 **76-5-401.3**, as last amended by Laws of Utah 2023, Chapters 123, 161

48 **77-18-102**, as last amended by Laws of Utah 2023, Chapter 330

49 **77-18-103**, as last amended by Laws of Utah 2023, Chapter 155

50 **77-20-205**, as last amended by Laws of Utah 2023, Chapters 408, 447

51 **77-27-9.5**, as last amended by Laws of Utah 1998, Chapter 355

52 **77-27-9.7**, as last amended by Laws of Utah 1994, Chapter 13

53 **77-27-13**, as last amended by Laws of Utah 1998, Chapter 171

54 **77-36-2.1**, as last amended by Laws of Utah 2023, Chapters 138, 447

55 **78A-5-201**, as last amended by Laws of Utah 2023, Chapter 330

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

57 **63M-7-404**, as last amended by Laws of Utah 2023, Chapter 111

58 **63M-7-404.3**, as enacted in S.B. 200 (2024 General Session)

59 **76-5-401.3**, as last amended by Laws of Utah 2023, Chapters 123, 161

60

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

- 62 Section 1. Section **63I-1-263** is amended to read:
- 63 **63I-1-263 . Repeal dates: Titles 63A to 63N.**
- 64 (1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement
65 funding, is repealed July 1, 2024.
- 66 (2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.
- 67 (3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee,
68 are repealed July 1, 2023.
- 69 (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1,
70 2028.
- 71 (5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.
- 72 (6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.
- 73 (7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
74 repealed July 1, 2023.
- 75 (8) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed
76 December 31, 2026.
- 77 (9) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed
78 July 1, 2026.
- 79 (10) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.
- 80 (11) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.
- 81 (12) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December 31,
82 2024.
- 83 (13) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed on
84 July 1, 2028.
- 85 (14) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities
86 Advisory Board, is repealed July 1, 2026.
- 87 (15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.
- 88 (16) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
89 2024.
- 90 (17) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.
- 91 (18) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is
92 repealed January 1, 2025.
- 93 (19) Section 63L-11-204, creating a canyon resource management plan to Provo Canyon, is
94 repealed July 1, 2025.
- 95 (20) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is

96 repealed July 1, 2027.

97 (21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January
98 1, 2033:

99 (a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are
100 repealed;

101 (b) Section 63M-7-305, the language that states "council" is replaced with "commission";

102 (c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

103 "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

104 (d) Subsection 63M-7-305(2) is repealed and replaced with:

105 "(2) The commission shall:

106 (a) provide ongoing oversight of the implementation, functions, and evaluation of the
107 Drug-Related Offenses Reform Act; and

108 (b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections [
109 ~~77-18-103(2)(e)~~] 77-18-103(3)(c) and (d)."

110 (22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is
111 repealed July 1, 2027.

112 (23) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July 1, 2026.

113 (24) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

114 (25) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed
115 January 1, 2025.

116 (26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

117 (27) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1,
118 2028.

119 (28) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July
120 1, 2027.

121 (29) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is
122 repealed July 1, 2025.

123 (30) In relation to the Rural Employment Expansion Program, on July 1, 2028:

124 (a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

125 (b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program,
126 is repealed.

127 (31) In relation to the Board of Tourism Development, on July 1, 2025:

128 (a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

129 (b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is

- 130 repealed and replaced with "Utah Office of Tourism";
- 131 (c) Subsection 63N-7-101(1), which defines "board," is repealed;
- 132 (d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive
- 133 approval from the Board of Tourism Development, is repealed; and
- 134 (e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.
- 135 (32) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic
- 136 Opportunity to issue an amount of tax credit certificates only for rural productions, is
- 137 repealed on July 1, 2024.

138 Section 2. Section **63M-7-303** is amended to read:

139 **63M-7-303 . Duties of council.**

- 140 (1) The Utah Substance Use and Mental Health Advisory Council shall:
- 141 (a) provide leadership and generate unity for Utah's ongoing efforts to reduce and
- 142 eliminate the impact of substance use and mental health disorders in Utah through a
- 143 comprehensive and evidence-based prevention, treatment, and justice strategy;
- 144 (b) recommend and coordinate the creation, dissemination, and implementation of
- 145 statewide policies to address substance use and mental health disorders;
- 146 (c) facilitate planning for a balanced continuum of substance use and mental health
- 147 disorder prevention, treatment, and justice services;
- 148 (d) promote collaboration and mutually beneficial public and private partnerships;
- 149 (e) coordinate recommendations made by any committee created under Section
- 150 63M-7-302;
- 151 (f) analyze and provide an objective assessment of all proposed legislation concerning
- 152 substance use, mental health, forensic mental health, and related issues;
- 153 (g) coordinate the implementation of Section 77-18-104 and related provisions in
- 154 Subsections [~~77-18-103(2)(e)~~] 77-18-103(3)(c) and (d), as provided in Section
- 155 63M-7-305;
- 156 (h) comply with Section 32B-2-306;
- 157 (i) oversee coordination for the funding, implementation, and evaluation of suicide
- 158 prevention efforts described in Section 26B-5-611;
- 159 (j) advise the Department of Health and Human Services regarding the state hospital
- 160 admissions policy for individuals in the custody of the Department of Corrections;
- 161 (k) regarding the interaction between an individual with a mental illness or an
- 162 intellectual disability and the civil commitment system, criminal justice system, or
- 163 juvenile justice system:

- 164 (i) promote communication between and coordination among all agencies interacting
 165 with the individual;
- 166 (ii) study, evaluate, and recommend changes to laws and procedures;
- 167 (iii) identify and promote the implementation of specific policies and programs to
 168 deal fairly and efficiently with the individual; and
- 169 (iv) promote judicial education;
- 170 (l) study the long-term need for adult patient staffed beds at the state hospital, including:
- 171 (i) the total number of staffed beds currently in use at the state hospital;
- 172 (ii) the current staffed bed capacity at the state hospital;
- 173 (iii) the projected total number of staffed beds needed in the adult general psychiatric
 174 unit of the state hospital over the next three, five, and 10 years based on:
- 175 (A) the state's current and projected population growth;
- 176 (B) current access to mental health resources in the community; and
- 177 (C) any other factors the council finds relevant to projecting the total number of
 178 staffed beds; and
- 179 (iv) the cost associated with the projected total number of staffed beds described in
 180 Subsection (1)(l)(iii); and
- 181 (m) each year report on whether the pay of the state hospital's employees is adequate
 182 based on market conditions.
- 183 (2) The council shall meet quarterly or more frequently as determined necessary by the
 184 chair.
- 185 (3) The council shall report:
- 186 (a) with the assistance and staff support from the state hospital, regarding the items
 187 described in Subsections (1)(l) and (m), including any recommendations, to the
 188 Health and Human Services Interim Committee before October 1 of each year; and
- 189 (b) any other recommendations annually to the commission, the governor, the
 190 Legislature, and the Judicial Council.

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

192 Section 3. Section **63M-7-404** is amended to read:

193 **63M-7-404 . Purpose -- Duties.**

- 194 (1) The purpose of the commission is to develop guidelines and propose recommendations
 195 to the Legislature, the governor, and the Judicial Council regarding:
- 196 (a) the sentencing and release of juvenile and adult offenders in order to:
- 197 (i) respond to public comment;

- 198 (ii) relate sentencing practices and correctional resources;
199 (iii) increase equity in criminal sentencing;
200 (iv) better define responsibility in criminal sentencing; and
201 (v) enhance the discretion of sentencing judges while preserving the role of the Board
202 of Pardons and Parole and the Youth Parole Authority;
- 203 (b) the length of supervision of adult offenders on probation or parole in order to:
- 204 (i) increase equity in criminal supervision lengths;
205 (ii) respond to public comment;
206 (iii) relate the length of supervision to an offender's progress;
207 (iv) take into account an offender's risk of offending again;
208 (v) relate the length of supervision to the amount of time an offender has remained
209 under supervision in the community; and
210 (vi) enhance the discretion of the sentencing judges while preserving the role of the
211 Board of Pardons and Parole; and
- 212 (c) appropriate, evidence-based probation and parole supervision policies and services
213 that assist individuals in successfully completing supervision and reduce
214 incarceration rates from community supervision programs while ensuring public
215 safety, including:
- 216 (i) treatment and intervention completion determinations based on individualized
217 case action plans;
218 (ii) measured and consistent processes for addressing violations of conditions of
219 supervision;
220 (iii) processes that include using positive reinforcement to recognize an individual's
221 progress in supervision;
222 (iv) engaging with social services agencies and other stakeholders who provide
223 services that meet offender needs; and
224 (v) identifying community violations that may not warrant revocation of probation or
225 parole.
- 226 (2) (a) The commission shall modify the sentencing guidelines and supervision length
227 guidelines for adult offenders to implement the recommendations of the State
228 Commission on Criminal and Juvenile Justice for reducing recidivism.
- 229 (b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the
230 public and ensuring efficient use of state funds.
- 231 (3) (a) The commission shall modify the criminal history score in the sentencing

- 232 guidelines for adult offenders to implement the recommendations of the State
233 Commission on Criminal and Juvenile Justice for reducing recidivism.
- 234 (b) The modifications to the criminal history score under Subsection (3)(a) shall include
235 factors in an offender's criminal history that are relevant to the accurate determination
236 of an individual's risk of offending again.
- 237 (4) (a) The commission shall establish sentencing guidelines for periods of incarceration
238 for individuals who are on probation and:
- 239 (i) who have violated one or more conditions of probation; and
240 (ii) whose probation has been revoked by the court.
- 241 (b) For a situation described in Subsection (4)(a), the guidelines shall recommend that a
242 court consider:
- 243 (i) the seriousness of any violation of the condition of probation;
244 (ii) the probationer's conduct while on probation; and
245 (iii) the probationer's criminal history.
- 246 (5) (a) The commission shall establish sentencing guidelines for periods of incarceration
247 for individuals who are on parole and:
- 248 (i) who have violated a condition of parole; and
249 (ii) whose parole has been revoked by the Board of Pardons and Parole.
- 250 (b) For a situation described in Subsection (5)(a), the guidelines shall recommend that
251 the Board of Pardons and Parole consider:
- 252 (i) the seriousness of any violation of the condition of parole;
253 (ii) the individual's conduct while on parole; and
254 (iii) the individual's criminal history.
- 255 (6) The commission shall establish graduated and evidence-based processes to facilitate the
256 prompt and effective response to an individual's progress in or violation of the terms of
257 probation or parole by the adult probation and parole section of the Department of
258 Corrections, or other supervision services provider, to implement the recommendations
259 of the State Commission on Criminal and Juvenile Justice for reducing recidivism and
260 incarceration, including:
- 261 (a) responses to be used when an individual violates a condition of probation or parole;
262 (b) responses to recognize positive behavior and progress related to an individual's case
263 action plan;
264 (c) when a violation of a condition of probation or parole should be reported to the court
265 or the Board of Pardons and Parole; and

- 266 (d) a range of sanctions that may not exceed a period of incarceration of more than:
267 (i) three consecutive days; and
268 (ii) a total of five days in a period of 30 days.
- 269 (7) The commission shall establish graduated incentives to facilitate a prompt and effective
270 response by the adult probation and parole section of the Department of Corrections to
271 an offender's:
272 (a) compliance with the terms of probation or parole; and
273 (b) positive conduct that exceeds those terms.
- 274 (8) On or before October 31, 2024, the commission shall review and revise the supervision
275 tools in the guidelines to:
276 (a) recommend appropriate sanctions for an individual who violates probation or parole
277 by:
278 (i) committing a felony offense, a misdemeanor offense described in Title 76,
279 Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving
280 under the influence described in Section 41-6a-502;
281 (ii) possessing a dangerous weapon; or
282 (iii) willfully refusing to participate in treatment ordered by the court or the Board of
283 Pardons and Parole; and
284 (b) recommend appropriate incentives for an individual on probation or parole that:
285 (i) completes all conditions of probation or parole; or
286 (ii) maintains eligible employment as defined in Section 64-13g-101.
- 287 ~~[(8)]~~ (9) (a) The commission shall establish guidelines, including sanctions and
288 incentives, to appropriately respond to negative and positive behavior of juveniles
289 who are:
290 (i) nonjudicially adjusted;
291 (ii) placed on diversion;
292 (iii) placed on probation;
293 (iv) placed on community supervision;
294 (v) placed in an out-of-home placement; or
295 (vi) placed in a secure care facility.
- 296 (b) In establishing guidelines under this Subsection ~~[(8)]~~ (9), the commission shall
297 consider:
298 (i) the seriousness of the negative and positive behavior;
299 (ii) the juvenile's conduct post-adjudication; and

- 300 (iii) the delinquency history of the juvenile.
- 301 (c) The guidelines shall include:
- 302 (i) responses that are swift and certain;
- 303 (ii) a continuum of community-based options for juveniles living at home;
- 304 (iii) responses that target the individual's criminogenic risk and needs; and
- 305 (iv) incentives for compliance, including earned discharge credits.
- 306 ~~[(9)]~~ (10) The commission shall establish and maintain supervision length guidelines in
- 307 accordance with this section.
- 308 ~~[(10)]~~ (11) (a) The commission shall create sentencing guidelines and supervision length
- 309 guidelines for the following financial and property offenses for which a pecuniary
- 310 loss to a victim may exceed \$50,000:
- 311 (i) securities fraud, Sections 61-1-1 and 61-1-21;
- 312 (ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment
- 313 adviser representative, Sections 61-1-3 and 61-1-21;
- 314 (iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;
- 315 (iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1,
- 316 Assault and Related Offenses;
- 317 (v) arson, Section 76-6-102;
- 318 (vi) burglary, Section 76-6-202;
- 319 (vii) theft under Title 76, Chapter 6, Part 4, Theft;
- 320 (viii) forgery, Section 76-6-501;
- 321 (ix) unlawful dealing of property by a fiduciary, Section 76-6-513;
- 322 (x) insurance fraud, Section 76-6-521;
- 323 (xi) computer crimes, Section 76-6-703;
- 324 (xii) mortgage fraud, Section 76-6-1203;
- 325 (xiii) pattern of unlawful activity, Sections 76-10-1603 and 76-10-1603.5;
- 326 (xiv) communications fraud, Section 76-10-1801;
- 327 (xv) money laundering, Section 76-10-1904; and
- 328 (xvi) other offenses in the discretion of the commission.
- 329 (b) The guidelines described in Subsection ~~[(10)(a)]~~ (11)(a) shall include a sentencing
- 330 matrix with proportionate escalating sanctions based on the amount of a victim's loss.
- 331 (c) On or before August 1, 2022, the commission shall publish for public comment the
- 332 guidelines described in Subsection ~~[(10)(a)]~~ (11)(a).
- 333 ~~[(11)]~~ (12) (a) Before January 1, 2023, the commission shall study the offenses of sexual

334 exploitation of a minor and aggravated sexual exploitation of a minor under Sections
335 76-5b-201 and 76-5b-201.1.

336 (b) The commission shall update sentencing and release guidelines and juvenile
337 disposition guidelines to reflect appropriate sanctions for an offense listed in
338 Subsection [~~(11)~~(a)] (12)(a), including the application of aggravating and mitigating
339 factors specific to the offense.

340 (13) The commission shall establish guidelines that recommend an enhanced sentence that
341 a court or the Board of Pardons and Parole should consider when determining the period
342 in which a habitual offender, as defined in Section 77-18-102, will be incarcerated.

343 Section 4. Section **64-13-21** is amended to read:

344 **64-13-21 . Supervision of sentenced offenders placed in community --**

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

346 **Duties -- Supervision fee.**

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

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

355 (c) The department shall establish standards for:

356 (i) the supervision of offenders in accordance with sentencing guidelines and
357 supervision length guidelines, including the graduated and evidence-based
358 responses, established by the Utah Sentencing Commission, giving priority, based
359 on available resources, to felony offenders and offenders sentenced under
360 Subsection 58-37-8 (2)(b)(ii); and

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

362 (2) The department shall apply the graduated and evidence-based responses established by
363 the Utah Sentencing Commission to facilitate a prompt and appropriate response to an
364 individual's violation of the terms of probation or parole, including:

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

366 (b) requesting approval from the court or Board of Pardons and Parole to impose a
367 sanction for an individual's violation of the terms of probation or parole, for a period

368 of incarceration of not more than three consecutive days and not more than a total of
369 five days within a period of 30 days.

370 (3) The department shall implement a program of graduated incentives as established by the
371 Utah Sentencing Commission to facilitate the department's prompt and appropriate
372 response to an offender's:

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

374 (b) positive conduct that exceeds those terms.

375 (4) (a) The department shall, in collaboration with the State Commission on Criminal
376 and Juvenile Justice and the Division of Substance Abuse and Mental Health, create
377 standards and procedures for the collection of information, including cost savings
378 related to recidivism reduction and the reduction in the number of inmates, related to
379 the use of the graduated and evidence-based responses and graduated incentives, and
380 offenders' outcomes.

381 (b) The collected information shall be provided to the State Commission on Criminal
382 and Juvenile Justice not less frequently than annually on or before August 31.

383 (5) Employees of the department who are POST certified as law enforcement officers or
384 correctional officers and who are designated as parole and probation officers by the
385 executive director have the following duties:

386 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance
387 with the conditions of the parole or probation agreement;

388 (b) investigating or apprehending any offender who has escaped from the custody of the
389 department or absconded from supervision;

390 (c) supervising any offender during transportation; or

391 (d) collecting DNA specimens when the specimens are required under Section 53-10-404.

392 (6) (a) (i) A monthly supervision fee of \$30 shall be collected from each offender on
393 probation or parole.

394 (ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the
395 department upon a showing by the offender that imposition would create a
396 substantial hardship or if the offender owes restitution to a victim.

397 (b) (i) The department shall make rules in accordance with Title 63G, Chapter 3,
398 Utah Administrative Rulemaking Act, specifying the criteria for suspension or
399 waiver of the supervision fee and the circumstances under which an offender may
400 request a hearing.

401 (ii) In determining whether the imposition of the supervision fee would constitute a

402 substantial hardship, the department shall consider the financial resources of the
403 offender and the burden that the fee would impose, with regard to the offender's
404 other obligations.

405 (7) (a) For offenders placed on probation under Section 77-18-105 or parole under
406 Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019,
407 the department shall establish a program allowing ~~[an offender to earn credits for the~~
408 ~~offender's compliance with the terms of the offender's probation or parole, which~~
409 ~~shall be applied to reducing the period of probation or parole as provided in this~~
410 ~~Subsection (7).~~ (b) ~~The program shall provide that an offender earns] an offender to~~
411 earn a reduction credit of 30 days from the offender's period of probation or parole
412 for each month the offender [completes without any violation of] complies with
413 the terms of the offender's probation or parole agreement, including the case
414 action plan.

415 (b) (i) For offenders placed on probation under Section 77-18-105 or parole under
416 Section 76-3-202 on or after July 1, 2026, the department shall establish a
417 program, consistent with the sentencing and supervision length guidelines
418 described in Section 63M-7-404, to provide incentives for an offender that
419 maintains eligible employment, as defined in Section 64-13g-101.

420 (ii) The program under Subsection (7)(b)(i) may include a credit towards the
421 reduction of the length of supervision for an offender at a rate of up to 30 days for
422 each month that the offender maintains eligible employment, as defined in Section
423 64-13g-101.

424 (iii) A court, or the Board of Pardons and Parole, is not required to grant a request for
425 termination of supervision under the program described in this Subsection (7)(b) if
426 the court, or the Board of Pardons and Parole, finds that:

427 (A) the offender presents a substantial risk to public safety;

428 (B) termination would prevent the offender from completing risk reduction
429 programming or treatment; or

430 (C) the eligibility criteria for termination of supervision, as established in the
431 sentencing and supervision length guidelines described in Section 63M-7-404,
432 have not been met.

433 (iv) This Subsection (7)(b) does not prohibit the department, or another supervision
434 services provider, from requesting termination of supervision based on the
435 eligibility criteria in the sentencing and supervision length guidelines described in

436 Section 63M-7-404.

437 (c) The department shall:

438 (i) maintain a record of credits earned by an offender under this Subsection (7)[~~and~~
439 ~~shall~~] ; and

440 (ii) request from the court or the Board of Pardons and Parole the termination of
441 probation or parole not fewer than 30 days prior to the termination date that
442 reflects the credits earned under this Subsection (7).

443 (d) This Subsection (7) does not prohibit the department from requesting a termination
444 date earlier than the termination date established by earned credits under Subsection
445 (7)(c).

446 (e) The court or the Board of Pardons and Parole shall terminate an offender's probation
447 or parole upon completion of the period of probation or parole accrued by time
448 served and credits earned under this Subsection (7) unless the court or the Board of
449 Pardons and Parole finds that termination would interrupt the completion of a
450 necessary treatment program, in which case the termination of probation or parole
451 shall occur when the treatment program is completed.

452 (f) The department shall report annually to the State Commission on Criminal and
453 Juvenile Justice on or before August 31:

454 (i) the number of offenders who have earned probation or parole credits under this
455 Subsection (7) in one or more months of the preceding fiscal year and the
456 percentage of the offenders on probation or parole during that time that this
457 number represents;

458 (ii) the average number of credits earned by those offenders who earned credits;

459 (iii) the number of offenders who earned credits by county of residence while on
460 probation or parole;

461 (iv) the cost savings associated with sentencing reform programs and practices; and

462 (v) a description of how the savings will be invested in treatment and
463 early-intervention programs and practices at the county and state levels.

464 Section 5. Section **76-5-401** is amended to read:

465 **76-5-401 . Unlawful sexual activity with a minor -- Penalties -- Evidence of age**
466 **raised by defendant -- Limitations.**

467 (1) (a) As used in this section, "minor" means an individual who is 14 years old or older,
468 but younger than 16 years old, at the time the sexual activity described in Subsection

469 (2) occurred.

- 470 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 471 (2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an
472 actor 18 years old or older commits unlawful sexual activity with a minor if the actor:
- 473 (i) has sexual intercourse with the minor;
- 474 (ii) engages in any sexual act with the minor involving the genitals of an individual
475 and the mouth or anus of another individual; or
- 476 (iii) causes the penetration, however slight, of the genital or anal opening of the
477 minor by a foreign object, substance, instrument, or device, including a part of the
478 human body, with the intent to cause substantial emotional or bodily pain to any
479 individual or with the intent to arouse or gratify the sexual desire of any individual.
- 480 (b) Any touching, however slight, is sufficient to constitute the relevant element of a
481 violation of Subsection (2)(a)(ii).
- 482 (3) (a) A violation of Subsection (2) is a third degree felony.
- 483 (b) (i) Notwithstanding Subsection (3)(a) or (c), a violation of Subsection (2) is a
484 class B misdemeanor if the defendant establishes by a preponderance of the
485 evidence the mitigating factor that:
- 486 (A) the defendant is less than four years older than the minor at the time the sexual
487 activity occurred~~[, the offense is a class B misdemeanor.]~~ ; or
- 488 (B) the defendant is 18 years old and enrolled in high school at the time the sexual
489 activity occurred.
- 490 (ii) An offense under Subsection (3)(b)(i) is not subject to registration under
491 Subsection 77-41-102(18)(a)(vii).
- 492 (c) (i) Notwithstanding Subsection (3)(a), if the defendant establishes by a
493 preponderance of the evidence the mitigating factor that the defendant was
494 younger than 21 years old at the time the sexual activity occurred, the offense is a
495 class A misdemeanor.
- 496 (ii) An offense under Subsection (3)(c)(i) is not subject to registration under
497 Subsection 77-41-102(18)(a)(vii).
- 498 (4) The offenses referred to in Subsection (2)(a) are:
- 499 (a) rape, in violation of Section 76-5-402;
- 500 (b) object rape, in violation of Section 76-5-402.2;
- 501 (c) forcible sodomy, in violation of Section 76-5-403;
- 502 (d) aggravated sexual assault, in violation of Section 76-5-405; or
- 503 (e) an attempt to commit an offense listed in Subsections (4)(a) through (4)(d).

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

505 Section 6. Section ~~76-5-401.3~~ is amended to read:

506 **76-5-401.3 . Unlawful adolescent sexual activity -- Penalties -- Limitations.**

507 (1) (a) As used in this section, "adolescent" means an individual [~~in the transitional~~
508 ~~phase of human physical and psychological growth and development between~~
509 ~~childhood and adulthood~~] who is 12 years old or older[;] but younger than 18 years
510 old.

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

512 (2) Under circumstances not amounting to an offense listed in Subsection (4), an actor
513 commits unlawful adolescent sexual activity if:

514 (a) the actor:

515 [~~(a)~~] (i) is [~~an adoleseent~~] 12 years old or older but younger than 18 years old; and

516 [~~(b)~~] (ii) has sexual activity with [~~another~~] an adolescent[;] or

517 (b) the actor:

518 (i) has sexual activity with an adolescent who is 12 or 13 years old; and

519 (ii) is 18 years old and is enrolled in high school at the time the sexual activity
520 occurred.

521 (3) (a) A violation of Subsection (2)(a) is a:

522 [~~(a)~~] (i) third degree felony if an actor who is 17 years old engages in unlawful
523 adolescent sexual activity with an adolescent who is 12 or 13 years old;

524 [~~(b)~~] (ii) third degree felony if an actor who is 16 years old engages in unlawful
525 adolescent sexual activity with an adolescent who is 12 years old;

526 [~~(c)~~] (iii) class A misdemeanor if an actor who is 16 years old engages in unlawful
527 adolescent sexual activity with an adolescent who is 13 years old;

528 [~~(d)~~] (iv) class A misdemeanor if an actor who is 14 or 15 years old engages in
529 unlawful adolescent sexual activity with an adolescent who is 12 years old;

530 [~~(e)~~] (v) class B misdemeanor if an actor who is 17 years old engages in unlawful
531 adolescent sexual activity with an adolescent who is 14 years old;

532 [~~(f)~~] (vi) class B misdemeanor if an actor who is 15 years old engages in unlawful
533 adolescent sexual activity with an adolescent who is 13 years old;

534 [~~(g)~~] (vii) class C misdemeanor if an actor who is 12 or 13 years old engages in
535 unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old;

536 and

537 [~~(h)~~] (viii) class C misdemeanor if an actor who is 14 years old engages in unlawful

- 538 adolescent sexual activity with an adolescent who is 13 years old.
- 539 (b) A violation of Subsection (2)(b) is a third degree felony.
- 540 (4) The offenses referred to in Subsection (2) are:
- 541 (a) rape, in violation of Section 76-5-402;
- 542 (b) rape of a child, in violation of Section 76-5-402.1;
- 543 (c) object rape, in violation of Section 76-5-402.2;
- 544 (d) object rape of a child, in violation of Section 76-5-402.3;
- 545 (e) forcible sodomy, in violation of Section 76-5-403;
- 546 (f) sodomy on a child, in violation of Section 76-5-403.1;
- 547 (g) sexual abuse of a child, in violation of Section 76-5-404;
- 548 (h) aggravated sexual assault, in violation of Section 76-5-405;
- 549 (i) incest, in violation of Section 76-7-102; or
- 550 (j) an attempt to commit any offense listed in Subsections (4)(a) through (4)(i).
- 551 (5) An offense under this section is not eligible for a nonjudicial adjustment under Section
- 552 80-6-303.5 or a referral to a youth court under Section 80-6-902.
- 553 (6) Except for an offense that is transferred to a district court by the juvenile court in
- 554 accordance with Section 80-6-504, the district court may enter any sentence or
- 555 combination of sentences that would have been available in juvenile court but for the
- 556 delayed reporting or delayed filing of the information in the district court.
- 557 (7) An offense under this section is not subject to registration under Subsection 77-41-102
- 558 (18).

559 Section 7. Section **77-18-102** is amended to read:

560 **77-18-102 . Definitions.**

561 As used in this chapter:

- 562 (1) "Assessment" means, except as provided in Section 77-18-104, the same as the term
- 563 "risk and needs assessment" in Section 77-1-3.
- 564 (2) "Board" means the Board of Pardons and Parole.
- 565 (3) "Civil accounts receivable" means the same as that term is defined in Section
- 566 77-32b-102.
- 567 (4) "Civil judgment of restitution" means the same as that term is defined in Section
- 568 77-32b-102.
- 569 (5) "Convicted" means the same as that term is defined in Section 76-3-201.
- 570 (6) "Criminal accounts receivable" means the same as that term is defined in Section
- 571 77-32b-102.

- 572 (7) "Default" means the same as that term is defined in Section 77-32b-102.
- 573 (8) "Delinquent" means the same as that term is defined in Section 77-32b-102.
- 574 (9) "Department" means the Department of Corrections created in Section 64-13-2.
- 575 (10) "Habitual offender" means an individual who has been convicted in:
- 576 (a) at least six cases for one or more felony offenses in each case; and
- 577 (b) each case described in Subsection (10)(a) within five years before the day on which
- 578 the defendant is convicted of the felony offense before the court.
- 579 ~~[(10)]~~ (11) "Payment schedule" means the same as that term is defined in Section
- 580 77-32b-102.
- 581 ~~[(11)]~~ (12) "Restitution" means the same as that term is defined in Section 77-38b-102.
- 582 ~~[(12)]~~ (13) "Screening" means, except as provided in Section 77-18-104, a tool or
- 583 questionnaire that is designed to determine whether an individual needs further
- 584 assessment or any additional resource or referral for treatment.
- 585 ~~[(13)]~~ (14) "Substance use disorder treatment" means treatment obtained through a
- 586 substance use disorder program that is licensed by the Office of Licensing within the
- 587 Department of Health and Human Services.
- 588 Section 8. Section **77-18-103** is amended to read:
- 589 **77-18-103 . Presentence investigation report -- Classification of presentence**
- 590 **investigation report -- Evidence or other information at sentencing.**
- 591 (1) Before the imposition of a sentence, the court may:
- 592 (a) upon agreement of the defendant, continue the date for the imposition of the sentence
- 593 for a reasonable period of time for the purpose of obtaining a presentence
- 594 investigation report from the department or a law enforcement agency, or information
- 595 from any other source about the defendant; and
- 596 (b) if the defendant is convicted of a felony or a class A misdemeanor, request that the
- 597 department or a law enforcement agency prepare a presentence investigation report
- 598 for the defendant.
- 599 (2) (a) Notwithstanding Subsection (1), if a defendant is convicted of a felony offense
- 600 and the defendant is a habitual offender, the prosecuting attorney shall notify the
- 601 court that the defendant is a habitual offender.
- 602 (b) Upon a notification under Subsection (2)(a), the court may not impose a sentence for
- 603 the conviction without ordering and obtaining a presentence investigation report,
- 604 unless the court finds good cause to proceed with sentencing without the presentence
- 605 investigation report.

- 606 [(2)] (3) If a presentence investigation report is required under Subsection (2) or the
607 standards established by the department described in Section 77-18-109, the presentence
608 investigation report under Subsection (1) shall include:
- 609 (a) any impact statement provided by a victim as described in Subsection 77-38b-203
610 (3)(c);
 - 611 (b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);
 - 612 (c) findings from any screening and any assessment of the defendant conducted under
613 Section 77-18-104;
 - 614 (d) recommendations for treatment for the defendant; and
 - 615 (e) the number of days since the commission of the offense that the defendant has spent
616 in the custody of the jail and the number of days, if any, the defendant was released
617 to a supervised release program or an alternative incarceration program under Section
618 17-22-5.5.
- 619 [(3)] (4) The department or law enforcement agency shall provide the presentence
620 investigation report to the defendant's attorney, or the defendant if the defendant is not
621 represented by counsel, the prosecuting attorney, and the court for review within three
622 working days before the day on which the defendant is sentenced.
- 623 [(4)] (5) (a) (i) If there is an alleged inaccuracy in the presentence investigation report
624 that is not resolved by the parties and the department or law enforcement agency
625 before sentencing:
- 626 (A) the alleged inaccuracy shall be brought to the attention of the court at
627 sentencing; and
 - 628 (B) the court may grant an additional 10 working days after the day on which the
629 alleged inaccuracy is brought to the court's attention to allow the parties and
630 the department to resolve the alleged inaccuracy in the presentence
631 investigation report.
- 632 (ii) If the court does not grant additional time under Subsection [(4)(a)(i)(B)]
633 (5)(a)(i)(B), or the alleged inaccuracy cannot be resolved after 10 working days,
634 and if the court finds that there is an inaccuracy in the presentence investigation
635 report, the court shall:
- 636 (A) enter a written finding as to the relevance and accuracy of the challenged
637 portion of the presentence investigation report; and
 - 638 (B) provide the written finding to the [~~Division of Adult Probation and Parole~~]
639 department or the law enforcement agency.

- 640 (b) The [~~Division of Adult Probation and Parole~~] department shall attach the written
641 finding to the presentence investigation report as an addendum.
- 642 (c) If a party fails to challenge the accuracy of the presentence investigation report at the
643 time of sentencing, the matter shall be considered waived.
- 644 [(5)] (6) The contents of the presentence investigation report are protected and not available
645 except by court order for purposes of sentencing as provided by rule of the Judicial
646 Council or for use by the department or law enforcement agency.
- 647 [(6)] (7) (a) A presentence investigation report is classified as protected in accordance
648 with Title 63G, Chapter 2, Government Records Access and Management Act.
- 649 (b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee
650 may not order the disclosure of a presentence investigation report.
- 651 [(7)] (8) Except for disclosure at the time of sentencing in accordance with this section, the
652 department or law enforcement agency may disclose a presentence investigation only
653 when:
- 654 (a) ordered by the court in accordance with Subsection 63G-2-202(7);
- 655 (b) requested by a law enforcement agency or other agency approved by the department
656 for purposes of supervision, confinement, and treatment of a defendant;
- 657 (c) requested by the board;
- 658 (d) requested by the subject of the presentence investigation report or the subject's
659 authorized representative;
- 660 (e) requested by the victim of the offense discussed in the presentence investigation
661 report, or the victim's authorized representative, if the disclosure is only information
662 relating to:
- 663 (i) statements or materials provided by the victim;
- 664 (ii) the circumstances of the offense, including statements by the defendant; or
- 665 (iii) the impact of the offense on the victim or the victim's household; or
- 666 (f) requested by a sex offender treatment provider:
- 667 (i) who is certified to provide treatment under the certification program established in
668 Subsection 64-13-25(2);
- 669 (ii) who is providing, at the time of the request, sex offender treatment to the offender
670 who is the subject of the presentence investigation report; and
- 671 (iii) who provides written assurance to the department that the report:
- 672 (A) is necessary for the treatment of the defendant;
- 673 (B) will be used solely for the treatment of the defendant; and

674 (C) will not be disclosed to an individual or entity other than the defendant.

675 ~~[(8)]~~ (9) (a) At the time of sentence, the court shall receive any testimony, evidence, or
676 information that the defendant or the prosecuting attorney desires to present
677 concerning the appropriate sentence.

678 (b) Testimony, evidence, or information under Subsection ~~[(8)(a)]~~ (9)(a) shall be
679 presented in open court on record and in the presence of the defendant.

680 Section 9. Section **77-20-205** is amended to read:

681 **77-20-205 . Pretrial release by a magistrate or judge.**

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

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

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

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

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

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

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

699 (c) Notwithstanding Subsection (1)(a) or (b), a magistrate shall issue a temporary
700 pretrial status order under Subsection (1) that detains an individual if the individual is
701 arrested for a felony offense and the magistrate finds:

702 (i) there is substantial evidence to support the individual's arrest for the felony
703 offense;

704 (ii) the individual committed the felony offense while:

705 (A) the individual was on parole or probation for a conviction of a felony offense;
706 or

707 (B) the individual was released and awaiting trial on a previous charge for a

- 708 felony offense; and
- 709 (iii) based on information reasonably available to the magistrate, the individual has at
710 least nine cases where the individual has been charged or convicted, or entered a
711 plea of guilty, within five years from the day on which the individual was arrested
712 for the felony offense described in Subsection (1)(c)(i).
- 713 (d) Subsection (1)(c) does not limit or prohibit a magistrate's authority to detain an
714 individual who does not meet the requirements described in Subsection (1)(c).
- 715 (2) (a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a
716 pretrial status order at an individual's first appearance before the court.
- 717 (b) The magistrate or judge may delay the issuance of a pretrial status order at an
718 individual's first appearance before the court:
- 719 (i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion
720 for pretrial detention as described in Section 77-20-206;
- 721 (ii) if a party requests a delay; or
- 722 (iii) if there is good cause to delay the issuance.
- 723 (c) If a magistrate or judge delays the issuance of a pretrial status order under Subsection
724 (2)(b), the magistrate or judge shall extend the temporary pretrial status order until
725 the issuance of a pretrial status order.
- 726 (3) (a) When a magistrate or judge issues a pretrial status order, the pretrial status order
727 shall:
- 728 (i) release the individual on the individual's own recognizance during the time the
729 individual awaits trial or other resolution of criminal charges;
- 730 (ii) designate a condition, or a combination of conditions, to be imposed upon the
731 individual's release during the time the individual awaits trial or other resolution
732 of criminal charges; or
- 733 (iii) order the individual to be detained during the time that individual awaits trial or
734 other resolution of criminal charges.
- 735 (b) In making a determination about pretrial release in a pretrial status order, the
736 magistrate or judge may not give any deference to a magistrate's decision in a
737 temporary pretrial status order.
- 738 (4) In making a determination about pretrial release, a magistrate or judge shall impose:
739 (a) only conditions of release that are reasonably available~~and necessary to~~
740 reasonably ensure; and
741 (b) conditions of release that reasonably ensure;

- 742 ~~[(a)]~~ (i) the individual's appearance in court when required;
- 743 ~~[(b)]~~ (ii) the safety of any witnesses or victims of the offense allegedly committed by
- 744 the individual;
- 745 ~~[(e)]~~ (iii) the safety and welfare of the public; and
- 746 ~~[(d)]~~ (iv) that the individual will not obstruct, or attempt to obstruct, the criminal
- 747 justice process.
- 748 (5) Except as provided in Subsection (1)(c) or (6), a magistrate or judge may impose a
- 749 condition, or combination of conditions, for pretrial release that requires an individual to:
- 750 (a) not commit a federal, state, or local offense during the period of pretrial release;
- 751 (b) avoid contact with a victim of the alleged offense;
- 752 (c) avoid contact with a witness who:
- 753 (i) may testify concerning the alleged offense; and
- 754 (ii) is named in the pretrial status order;
- 755 (d) not consume alcohol or any narcotic drug or other controlled substance unless
- 756 prescribed by a licensed medical practitioner;
- 757 (e) submit to drug or alcohol testing;
- 758 (f) complete a substance abuse evaluation and comply with any recommended treatment
- 759 or release program;
- 760 (g) submit to electronic monitoring or location device tracking;
- 761 (h) participate in inpatient or outpatient medical, behavioral, psychological, or
- 762 psychiatric treatment;
- 763 (i) maintain employment or actively seek employment if unemployed;
- 764 (j) maintain or commence an education program;
- 765 (k) comply with limitations on where the individual is allowed to be located or the times
- 766 that the individual shall be, or may not be, at a specified location;
- 767 (l) comply with specified restrictions on personal associations, place of residence, or
- 768 travel;
- 769 (m) report to a law enforcement agency, pretrial services program, or other designated
- 770 agency at a specified frequency or on specified dates;
- 771 (n) comply with a specified curfew;
- 772 (o) forfeit or refrain from possession of a firearm or other dangerous weapon;
- 773 (p) if the individual is charged with an offense against a child, limit or prohibit access to
- 774 any location or occupation where children are located, including any residence where
- 775 children are on the premises, activities where children are involved, locations where

- 776 children congregate, or where a reasonable person would know that children
777 congregate;
- 778 (q) comply with requirements for house arrest;
- 779 (r) return to custody for a specified period of time following release for employment,
780 schooling, or other limited purposes;
- 781 (s) remain in custody of one or more designated individuals who agree to:
- 782 (i) supervise and report on the behavior and activities of the individual; and
783 (ii) encourage compliance with all court orders and attendance at all required court
784 proceedings;
- 785 (t) comply with a financial condition; or
- 786 (u) comply with any other condition that is reasonably available and necessary to ensure
787 compliance with Subsection (4).
- 788 (6) (a) If a county or municipality has established a pretrial services program, the
789 magistrate or judge shall consider the services that the county or municipality has
790 identified as available in determining what conditions of release to impose.
- 791 (b) The magistrate or judge may not order conditions of release that would require the
792 county or municipality to provide services that are not currently available from the
793 county or municipality.
- 794 (c) Notwithstanding Subsection (6)(a), the magistrate or judge may impose conditions of
795 release not identified by the county or municipality so long as the condition does not
796 require assistance or resources from the county or municipality.
- 797 (7) (a) If the magistrate or judge determines that a financial condition, other than an
798 unsecured bond, is necessary to impose as a condition of release, the magistrate or
799 judge shall consider the individual's ability to pay when determining the amount of
800 the financial condition.
- 801 (b) If the magistrate or judge determines that a financial condition is necessary to impose
802 as a condition of release, and a county jail official fixed a financial condition for the
803 individual under Section 77-20-204, the magistrate or judge may not give any
804 deference to:
- 805 (i) the county jail official's action to fix a financial condition; or
806 (ii) the amount of the financial condition that the individual was required to pay for
807 pretrial release.
- 808 (c) If a magistrate or judge orders a financial condition as a condition of release, the
809 judge or magistrate shall set the financial condition at a single amount per case.

- 810 (8) In making a determination about pretrial release, the magistrate or judge may:
- 811 (a) rely upon information contained in:
- 812 (i) the indictment or information;
- 813 (ii) any sworn or probable cause statement or other information provided by law
- 814 enforcement;
- 815 (iii) a pretrial risk assessment;
- 816 (iv) an affidavit of indigency described in Section 78B-22-201.5;
- 817 (v) witness statements or testimony;
- 818 (vi) the results of a lethality assessment completed in accordance with Section
- 819 77-36-2.1; or
- 820 (vii) any other reliable record or source, including proffered evidence; and
- 821 (b) consider:
- 822 (i) the nature and circumstances of the offense, or offenses, that the individual was
- 823 arrested for, or charged with, including:
- 824 (A) whether the offense is a violent offense; and
- 825 (B) the vulnerability of a witness or alleged victim;
- 826 (ii) the nature and circumstances of the individual, including the individual's:
- 827 (A) character;
- 828 (B) physical and mental health;
- 829 (C) family and community ties;
- 830 (D) employment status or history;
- 831 (E) financial resources;
- 832 (F) past criminal conduct;
- 833 (G) history of drug or alcohol abuse; and
- 834 (H) history of timely appearances at required court proceedings;
- 835 (iii) the potential danger to another individual, or individuals, posed by the release of
- 836 the individual;
- 837 (iv) whether the individual was on probation, parole, or release pending an upcoming
- 838 court proceeding at the time the individual allegedly committed the offense or
- 839 offenses;
- 840 (v) the availability of:
- 841 (A) other individuals who agree to assist the individual in attending court when
- 842 required; or
- 843 (B) supervision of the individual in the individual's community;

844 (vi) the eligibility and willingness of the individual to participate in various treatment
845 programs, including drug treatment; or

846 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the
847 law if released.

848 (9) The magistrate or judge may not base a determination about pretrial release solely on
849 the seriousness or type of offense that the individual is arrested for or charged with,
850 unless the individual is arrested for or charged with a capital felony.

851 (10) An individual arrested for violation of a jail release agreement, or a jail release court
852 order, issued in accordance with Section 78B-7-802:

853 (a) may not be released before the individual's first appearance before a magistrate or
854 judge; and

855 (b) may be denied pretrial release by the magistrate or judge.

856 Section 10. Section **77-27-9.5** is amended to read:

857 **77-27-9.5 . Victim may attend hearings.**

858 (1) As used in this section, "hearing" means a hearing for a parole grant or revocation, or a
859 rehearing of either of these if the offender is present.

860 (2) (a) Except as provided in Subsection (2)(b), when a hearing is held regarding any
861 offense committed by the defendant that involved the victim, the victim may attend
862 the hearing to present ~~[his]~~ the victim's views concerning the decisions to be made
863 regarding the defendant.

864 (b) (i) The victim may not attend a redetermination or special attention hearing~~;~~ if
865 the offender is not present.

866 (ii) At that redetermination or special attention hearing, the board shall give
867 consideration to any presentation previously given by the victim regarding that
868 offender.

869 (3) (a) ~~The [notice of the hearing shall be timely sent to the victim at his most recent~~
870 ~~address of record with the board]~~ board shall send timely notice of the hearing to the
871 victim as provided in Subsection (3)(c).

872 (b) The notice shall include:

873 (i) the date, time, and location of the hearing;

874 (ii) a clear statement of the reason for the hearing, including all offenses involved;

875 (iii) the statutes and rules applicable to the victim's participation in the hearing;

876 (iv) the address and telephone number of an office or person the victim may contact
877 for further explanation of the procedure regarding victim participation in the

- 878 hearing; and
- 879 (v) specific information about how, when, and where the victim may obtain the
- 880 results of the hearing.
- 881 (c) The board may notify a victim through the board's website or through the mail or
- 882 other electronic means available to the board.
- 883 (d) If the victim requests that a notification occur using a specific method offered by the
- 884 board, the board shall make reasonable efforts to accommodate that request.
- 885 ~~[(e)]~~ (e) If the victim is ~~[dead]~~ deceased, or the board is otherwise unable to contact the
- 886 victim, the board shall make reasonable efforts to notify the victim's immediate
- 887 family of the hearing.
- 888 ~~[(f)]~~ (f) The victim may communicate with the board for consideration of continuance of
- 889 the hearing if travel or other significant conflict prohibits ~~[their]~~ the victim's
- 890 attendance at the hearing.
- 891 (4) The victim, or family members if the victim is deceased or unable to attend due to
- 892 physical incapacity, may:
- 893 (a) attend the hearing to observe;
- 894 (b) make a statement to the board, or ~~[its appointed examiner either]~~ the board's
- 895 appointed examiner, in person or through a representative appointed by the victim or [~~his]~~
- 896 the victim's family; and
- 897 (c) remain present for the hearing if ~~[he]~~ the victim appoints another to make a statement
- 898 on ~~[his]~~ the victim's behalf.
- 899 (5) The statement may be presented:
- 900 (a) as a written statement, which may also be read aloud, if the presenter desires; or
- 901 (b) as an oral statement presented by the person selected under Subsection (4).
- 902 (6) The victim may be accompanied by a member of his family or another individual,
- 903 present to provide emotional support to the victim.
- 904 (7) The victim may, upon request, testify outside the presence of the defendant but a
- 905 separate hearing may not be held for this purpose.
- 906 (8) (a) If a victim does not attend a hearing, the victim may provide a written statement
- 907 that complies with board rules.
- 908 (b) If the victim does not offer a verbal or written statement at the time of the hearing,
- 909 the board shall consider any statement from the victim that was previously provided
- 910 to the board.
- 911 (c) The board may not afford a written statement provided by a victim less weight than a

912 verbal statement solely because the statement is written.

913 Section 11. Section **77-27-9.7** is amended to read:

914 **77-27-9.7 . Victim right to notification of release -- Notice by board.**

915 [~~A victim entitled to notice of the hearings regarding parole under Section~~
 916 ~~77-27-9.5 shall also be notified by the Board of Pardons and Parole of the right of~~
 917 ~~victims to be advised upon request of other releases of the defendant under Section~~
 918 ~~64-13-14.7. The board may include this notification in the same notice sent under~~
 919 ~~Section 77-27-9.5.-]~~

920 (1) (a) In accordance with Subsection 77-38-104(1)(p), the board shall notify a victim of
 921 the victim's right to be informed, upon request, of other releases of the offender under
 922 Section 64-13-14.7.

923 (b) The board may provide the notification to the victim as described in Subsection
 924 77-27-9.5(3)(c).

925 (2) The board may include the notification under Subsection (1) with the notification sent
 926 under Subsection 77-27-9.5(3).

927 (3) The board shall coordinate with the Department of Corrections to ensure notice under
 928 this section is provided to [~~victims~~] a victim.

929 Section 12. Section **77-27-13** is amended to read:

930 **77-27-13 . Board of Pardons and Parole -- Duties of the judiciary, the**

931 **Department of Corrections, and law enforcement -- Removal of material from files.**

932 (1) The chief executive officer and employees of each penal or correctional institution shall
 933 cooperate fully with the board, permit board members free access to offenders, and
 934 furnish the board with pertinent information regarding an offender's physical, mental,
 935 and social history and his institutional record of behavior, discipline, work, efforts of
 936 self-improvement, and attitude toward society.

937 (2) (a) ~~The [Department of Corrections shall]~~ department shall:

938 (i) furnish any pertinent information [it has] , within the department's possession, to
 939 the board; and [shall]

940 (ii) provide a copy of the [pre-sentence report] presentence report, any available
 941 information within the department's possession concerning the impact a crime
 942 may have had upon the victim or the victim's family, and any other investigative
 943 reports to the board.

944 (b) In all cases where a [~~pre-sentence~~] presentence report has not been completed, the
 945 department shall:

- 946 (i) make a ~~[post-sentence]~~ postsentence report ~~[and shall]~~ ; and
- 947 (ii) provide a copy of ~~[it]~~ the postsentence report to the board as soon as possible.
- 948 (c) The department shall provide the board, upon request, any additional investigations
- 949 or information needed by the board to reach a decision or conduct a hearing.
- 950 (3) The department shall make ~~[its]~~ the department's facilities available to the board to carry
- 951 out ~~[its]~~ the board's functions.
- 952 (4) Law enforcement officials responsible for the offender's arrest, conviction, and sentence
- 953 shall furnish all pertinent data requested by the board.
- 954 ~~[(5) (a) In all cases where an indeterminate sentence is imposed, the judge imposing the~~
- 955 ~~sentence may within 30 days from the date of the sentence, mail to the chief executive of~~
- 956 ~~the board a statement in writing setting out the term for which, in his opinion, the~~
- 957 ~~offender sentenced should be imprisoned, and any information he may have regarding~~
- 958 ~~the character of the offender or any mitigating or aggravating circumstances connected~~
- 959 ~~with the offense for which the offender has been convicted. In addition, the prosecutor~~
- 960 ~~shall in all cases, within 30 days from the date of sentence, forward in writing to the~~
- 961 ~~chief executive of the board a full and complete description of the crime, a written~~
- 962 ~~record of any plea bargain entered into, a statement of the mitigating or aggravating~~
- 963 ~~circumstances or both, all investigative reports, a victim impact statement referring to~~
- 964 ~~physical, mental, or economic loss suffered, and any other information the prosecutor~~
- 965 ~~believes will be relevant to the board. These statements shall be preserved in the files of~~
- 966 ~~the board.]~~
- 967 (5) (a) If an indeterminate sentence is imposed in a case, the court shall forward, within
- 968 30 days after the day on which the sentence was imposed, to the board:
- 969 (i) a record of the judgment and commitment;
- 970 (ii) if available and in the court's possession, a victim impact statement referring to
- 971 any loss suffered by a victim; and
- 972 (iii) any other record that the court believes will be relevant to the board, including a
- 973 statement:
- 974 (A) proposing the term for which, in the court's opinion, the offender should be
- 975 imprisoned;
- 976 (B) any information the court may have regarding the character of the offender;
- 977 and
- 978 (C) any mitigating or aggravating circumstances connected with the offense for
- 979 which the offender has been convicted.

980 (b) If the court amends an order for a judgment and commitment, the court shall forward
 981 the amended order to the board within 30 days after the day on which the amended
 982 order is entered.

983 (6) If an indeterminate sentence is imposed in a case and the offender is committed to
 984 prison, the prosecuting attorney shall forward, in writing and within 30 days after the
 985 day on which the sentence was imposed, to the board:

986 (a) a victim impact statement referring to any loss suffered by a victim; and

987 (b) any other information the prosecuting attorney believes will be relevant to the board,
 988 including a summary and recommendations related to the case.

989 ~~(b)~~ (7) Notwithstanding Subsection ~~[(5)(a)] (5) or (6), the board may remove from [its] the~~
 990 board's files any:

991 ~~[(i)]~~ (a) statement that [it] the board is not going to rely on in [its decisionmaking] the
 992 board's decision-making process;

993 ~~[(ii)]~~ (b) information found to be incorrect by a court, the [Board of Pardons and Parole]
 994 board, or an administrative agency; or

995 ~~[(iii)]~~ (c) duplicative materials.

996 ~~[(6)]~~ (8) The chief executive officer of any penal or correctional institution shall permit
 997 offenders to send mail to the board without censorship.

998 Section 13. Section **77-36-2.1** is amended to read:

999 **77-36-2.1 . Duties of law enforcement officers -- Notice to victims -- Lethality**
 1000 **assessments.**

1001 (1) ~~[For purposes of]~~ As used in this section:

1002 (a) "Criminal justice system victim advocate" means the same as that term is defined in
 1003 Section 77-38-403.

1004 ~~[(a)]~~ (b) (i) "Dating relationship" means a social relationship of a romantic or intimate
 1005 nature, or a relationship which has romance or intimacy as a goal by one or both
 1006 parties, regardless of whether the relationship involves sexual intimacy.

1007 (ii) "Dating relationship" does not include casual fraternization in a business,
 1008 educational, or social context.

1009 ~~[(b)]~~ (c) "Intimate partner" means an emancipated individual under Section 15-2-1 or an
 1010 individual who is 16 years old or older who:

1011 (i) is or was a spouse of the other party;

1012 (ii) is or was living as if a spouse of the other party;

1013 (iii) has or had one or more children in common with the other party;

- 1014 (iv) is the biological parent of the other party's unborn child;
- 1015 (v) is or was in a consensual sexual relationship with the other party; or
- 1016 (vi) is or was in a dating relationship with the other party.
- 1017 [~~(e)~~] (d) "Nongovernment organization victim advocate" means the same as that term is
- 1018 defined in Section 77-38-403.
- 1019 [~~(d)~~] (e) "Primary purpose domestic violence organization" means a contract provider of
- 1020 domestic violence services as described in Section 80-2-301.
- 1021 (2) A law enforcement officer who responds to an allegation of domestic violence shall:
- 1022 (a) use all reasonable means to protect the victim and prevent further violence, including:
- 1023 (i) taking the action that, in the officer's discretion, is reasonably necessary to provide
- 1024 for the safety of the victim and any family or household member;
- 1025 (ii) confiscating the weapon or weapons involved in the alleged domestic violence;
- 1026 (iii) making arrangements for the victim and any child to obtain emergency housing
- 1027 or shelter;
- 1028 (iv) providing protection while the victim removes essential personal effects;
- 1029 (v) arrange, facilitate, or provide for the victim and any child to obtain medical
- 1030 treatment; [~~and~~]
- 1031 (vi) arrange, facilitate, or provide the victim with immediate and adequate notice of
- 1032 the rights of victims and of the remedies and services available to victims of
- 1033 domestic violence, in accordance with Subsection (3); and
- 1034 (vii) providing the pamphlet created by the department under Section 53-5c-201 to
- 1035 the victim if the allegation of domestic violence:
- 1036 (A) includes a threat of violence as described in Section 76-5-107;
- 1037 (B) results, or would result, in the owner cohabitant becoming a restricted person
- 1038 under Section 76-10-503; or
- 1039 (C) is accompanied by a completed lethality assessment that demonstrates the
- 1040 cohabitant is at high risk of being further victimized; and
- 1041 (b) if the allegation of domestic violence is against an intimate partner, complete the
- 1042 lethality assessment protocols described in this section.
- 1043 (3) (a) A law enforcement officer shall give written notice to the victim in simple
- 1044 language, describing the rights and remedies available under this chapter, Title 78B,
- 1045 Chapter 7, Part 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part
- 1046 2, Child Protective Orders.
- 1047 (b) The written notice shall include:

- 1048 (i) a statement that the forms needed in order to obtain an order for protection are
1049 available from the court clerk's office in the judicial district where the victim
1050 resides or is temporarily domiciled;
- 1051 (ii) a list of shelters, services, and resources available in the appropriate community,
1052 together with telephone numbers, to assist the victim in accessing any needed
1053 assistance; and
- 1054 (iii) the information required to be provided to both parties in accordance with
1055 Subsections 78B-7-802(8) and (9) .
- 1056 (4) If a weapon is confiscated under this section, the law enforcement agency shall return
1057 the weapon to the individual from whom the weapon is confiscated if a domestic
1058 violence protective order is not issued or once the domestic violence protective order is
1059 terminated.
- 1060 (5) A law enforcement officer shall complete a lethality assessment form by asking the
1061 victim:
- 1062 (a) if the aggressor has ever used a weapon against the victim or threatened the victim
1063 with a weapon;
- 1064 (b) if the aggressor has ever threatened to kill the victim or the victim's children;
- 1065 (c) if the victim believes the aggressor will try to kill the victim;
- 1066 (d) if the aggressor has ever tried to choke the victim;
- 1067 (e) if the aggressor has a gun or could easily get a gun;
- 1068 (f) if the aggressor is violently or constantly jealous, or controls most of the daily
1069 activities of the victim;
- 1070 (g) if the victim left or separated from the aggressor after they were living together or
1071 married;
- 1072 (h) if the aggressor is unemployed;
- 1073 (i) if the aggressor has ever attempted suicide, to the best of the victim's knowledge;
- 1074 (j) if the victim has a child that the aggressor believes is not the aggressor's biological
1075 child;
- 1076 (k) if the aggressor follows or spies on the victim, or leaves threatening messages for the
1077 victim; and
- 1078 (l) if there is anything else that worries the victim about the victim's safety and, if so,
1079 what worries the victim.
- 1080 (6) A law enforcement officer shall comply with Subsection (7) if:
- 1081 (a) the victim answers affirmatively to any of the questions in Subsections (5)(a) through

- 1082 (d);
- 1083 (b) the victim answers negatively to the questions in Subsections (5)(a) through (d), but
1084 affirmatively to at least four of the questions in Subsections (5)(e) through (k); or
- 1085 (c) as a result of the victim's response to the question in Subsection (5)(l), the law
1086 enforcement officer believes the victim is in a potentially lethal situation.
- 1087 (7) If the criteria in Subsections (6)(a), (b), or (c) are met, the law enforcement officer shall:
- 1088 (a) advise the victim of the results of the assessment; [~~and~~]
- 1089 (b) refer the victim to a nongovernment organization victim advocate at a primary
1090 purpose domestic violence organization[-] ; and
- 1091 (c) refer the victim to a criminal justice system victim advocate if the responding law
1092 enforcement agency has a criminal justice system victim advocate available.
- 1093 (8) If a victim does not or is unable to provide information to a law enforcement officer
1094 sufficient to allow the law enforcement officer to complete a lethality assessment form,
1095 or does not speak or is unable to speak with a nongovernment organization victim
1096 advocate, the law enforcement officer shall document this information on the lethality
1097 assessment form and submit the information to the Department of Public Safety under
1098 Subsection (9).
- 1099 (9) (a) Except as provided in Subsection (9)(b), a law enforcement officer shall submit
1100 the results of a lethality assessment to the Department of Public Safety while on
1101 scene.
- 1102 (b) If a law enforcement officer is not reasonably able to submit the results of a lethality
1103 assessment while on scene, the law enforcement officer shall submit the results of the
1104 lethality assessment to the Department of Public Safety as soon as practicable.
- 1105 (c) (i) Before the reporting mechanism described in Subsection (10)(a) is developed,
1106 a law enforcement officer shall submit the results of a lethality assessment to the
1107 Department of Public Safety using means prescribed by the Department of Public
1108 Safety.
- 1109 (ii) After the reporting mechanism described in Subsection (10)(a) is developed, a
1110 law enforcement officer shall submit the results of a lethality assessment to the
1111 Department of Public Safety using that reporting mechanism.
- 1112 (10) The Department of Public Safety shall:
- 1113 (a) as soon as practicable, develop and maintain a reporting mechanism by which a law
1114 enforcement officer will submit the results of a lethality assessment as required by
1115 Subsection (9);

- 1116 (b) provide prompt analytical support to a law enforcement officer who submits the
1117 results of a lethality assessment using the reporting mechanism described in
1118 Subsection (10)(a); and
- 1119 (c) create and maintain a database of lethality assessment data provided under this
1120 section.
- 1121 (11) (a) Subject to Subsection (11)(b), a law enforcement officer shall include the results
1122 of a lethality assessment and any related, relevant analysis provided by the
1123 Department of Public Safety under Subsection (10), with:
- 1124 (i) a probable cause statement submitted in accordance with Rule 9 of the Utah Rules
1125 of Criminal Procedure; and
- 1126 (ii) an incident report prepared in accordance with Section 77-36-2.2.
- 1127 (b) In a probable cause statement or incident report, a law enforcement officer may not
1128 include information about how or where a victim was referred under Subsection (7)(b).
1129 Section 14. Section **78A-5-201** is amended to read:
- 1130 **78A-5-201 . Creation and expansion of existing drug court programs -- Definition**
1131 **of drug court program -- Criteria for participation in drug court programs --**
1132 **Reporting requirements.**
- 1133 (1) There may be created a drug court program in any judicial district that demonstrates:
- 1134 (a) the need for a drug court program; and
- 1135 (b) the existence of a collaborative strategy between the court, prosecutors, defense
1136 counsel, corrections, and substance abuse treatment services to reduce substance
1137 abuse by offenders.
- 1138 (2) The collaborative strategy in each drug court program shall:
- 1139 (a) include monitoring and evaluation components to measure program effectiveness;
1140 and
- 1141 (b) be submitted to, for the purpose of coordinating the disbursement of funding, the:
- 1142 (i) executive director of the Department of Health and Human Services;
1143 (ii) executive director of the Department of Corrections; and
1144 (iii) state court administrator.
- 1145 (3) (a) Funds disbursed to a drug court program shall be allocated as follows:
- 1146 (i) 87% to the Department of Health and Human Services for testing, treatment, and
1147 case management; and
- 1148 (ii) 13% to the Administrative Office of the Courts for increased judicial and court
1149 support costs.

- 1150 (b) This provision does not apply to federal block grant funds.
- 1151 (4) A drug court program shall include continuous judicial supervision using a cooperative
 1152 approach with prosecutors, defense counsel, corrections, substance abuse treatment
 1153 services, juvenile court probation, and the Division of Child and Family Services as
 1154 appropriate to promote public safety, protect participants' due process rights, and
 1155 integrate substance abuse treatment with justice system case processing.
- 1156 (5) Screening criteria for participation in a drug court program shall include:
- 1157 (a) a plea to, conviction of, or adjudication for a nonviolent drug offense or drug-related
 1158 offense;
- 1159 (b) an agreement to frequent alcohol and other drug testing;
- 1160 (c) participation in one or more substance abuse treatment programs; and
- 1161 (d) an agreement to submit to sanctions for noncompliance with drug court program
 1162 requirements.
- 1163 (6) (a) The Judicial Council shall develop rules prescribing eligibility requirements for
 1164 participation in adult criminal drug courts.
- 1165 (b) ~~[Acceptance]~~ The eligibility requirements described in Subsection (6)(a):
- 1166 (i) shall require that the acceptance of an offender into a drug court [shall be based] is
 1167 based on a risk and needs assessment[; without regard to the nature of the offense.]
 1168 and targeted at individuals who are high risk and high needs; and
- 1169 (ii) may not limit participation in a drug court only to individuals convicted of an
 1170 offense described in Section 58-37-8.
- 1171 (c) A plea to, conviction of, or adjudication for a felony offense is not required for
 1172 participation in a drug court program.

1173 **Section 15. Effective date.**

1174 This bill takes effect on May 1, 2024.

1175 **Section 16. Coordinating S.B. 213 with H.B. 16.**

1176 If S.B. 213, Criminal Justice Modifications, and H.B. 16, Sexual Offenses
 1177 Amendments, both pass and become law, the Legislature intends that, on May 1,
 1178 2024, Section 76-5-401.3 be amended to read:

1179 **"76-5-401.3. Unlawful adolescent sexual activity -- Penalties -- Limitations.**

- 1180 (1) (a) As used in this section, "adolescent" means an individual[~~in the~~
 1181 ~~transitional phase of human physical and psychological growth and development~~
 1182 ~~between childhood and adulthood]~~ who is 12 years old or older[;] but younger than
 1183 18 years old.

1184 (b) Terms defined in Section 76-1-101.5 apply to this section.

1185 (2) Under circumstances not amounting to an offense listed in Subsection ~~[(4)]~~ (5),

1186 an actor commits unlawful sexual activity if ~~the actor~~:

1187 ~~[(a) is an adolescent; and~~

1188 ~~(b) has sexual activity with another adolescent.]~~

1189 (a) (i) the actor is 12 years old or older but younger than 18 years old;

1190 (ii) the actor engages in sexual activity with an adolescent;

1191 (iii) the actor is not the biological sibling of the adolescent; and

1192 (iv) both the actor and the adolescent mutually agree to the sexual activity; or

1193 (b) (i) the actor engages in sexual activity with an adolescent who is 13 years old;

1194 (ii) the actor is 18 years old and enrolled in high school at the time that the sexual

1195 activity occurred;

1196 (iii) the actor is not the biological sibling of the adolescent; and

1197 (iv) both the actor and the adolescent mutually agree to the sexual activity.

1198 (3) (a) A violation of Subsection (2)(a) is a:

1199 ~~[(a)]~~ (i) third degree felony if an actor who is 17 years old engages in unlawful

1200 adolescent sexual activity with an adolescent who is ~~12 or~~ 13 years old;

1201 ~~[(b)]~~ (ii) third degree felony if an actor who is 16 years old engages in unlawful

1202 adolescent sexual activity with an adolescent who is 12 years old;

1203 ~~[(c)]~~ (iii) class A misdemeanor if an actor who is 16 years old engages in

1204 unlawful adolescent sexual activity with an adolescent who is 13 years old;

1205 ~~[(d)]~~ (iv) class A misdemeanor if an actor who is 14 or 15 years old engages in

1206 unlawful adolescent sexual activity with an adolescent who is 12 years old;

1207 ~~[(e)]~~ (v) class B misdemeanor if an actor who is 17 years old engages in unlawful

1208 adolescent sexual activity with an adolescent who is 14 years old;

1209 ~~[(f)]~~ (vi) class B misdemeanor if an actor who is 15 years old engages in unlawful

1210 adolescent sexual activity with an adolescent who is 13 years old;

1211 ~~[(g)]~~ (vii) class C misdemeanor if an actor who is 12 or 13 years old engages in

1212 unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and

1213 ~~[(h)]~~ (viii) class C misdemeanor if an actor who is 14 years old engages in

1214 unlawful adolescent sexual activity with an adolescent who is 13 years old.

1215 (b) A violation of Subsection (2)(b) is a third degree felony.

1216 (4) The actor and the adolescent do not mutually agree to the sexual activity

1217 under Subsection (2) if:

- 1218 (a) the adolescent expresses lack of agreement to the sexual activity through
 1219 words or conduct;
- 1220 (b) the actor overcomes the adolescent's will through:
 1221 (i) threats to the adolescent or any other individual;
 1222 (ii) force;
 1223 (iii) coercion; or
 1224 (iv) enticement;
- 1225 (c) the actor is able to overcome the adolescent through concealment or by the
 1226 element of surprise;
- 1227 (d) the actor knows, or reasonably should know, that the adolescent has a mental
 1228 disease or defect, which renders the adolescent unable to:
 1229 (i) appraise the nature of the act;
 1230 (ii) resist the act;
 1231 (iii) understand the possible consequences to the adolescent's health or safety; or
 1232 (iv) appraise the nature of the relationship between the actor and the adolescent;
- 1233 (e) the actor knows that the adolescent participates in the sexual activity because
 1234 the adolescent erroneously believes that the actor is someone else; or
- 1235 (f) the actor intentionally impaired the power of the adolescent to appraise or
 1236 control the adolescent's conduct by administering any substance without the
 1237 adolescent's knowledge.
- 1238 ~~[(4)]~~ (5) The offenses referred to in Subsection (2) are:
 1239 (a) rape~~[-, in violation of]~~ under Section 76-5-402;
 1240 ~~[(b) rape of a child, in violation of Section 76-5-402.1;~~
 1241 ~~(e)]~~ (b) object rape~~[-, in violation of]~~ under Section 76-5-402.2;
 1242 ~~[(d) object rape of a child, in violation of Section 76-5-402.3;~~
 1243 ~~(e)]~~ (c) forcible sodomy~~[-, in violation of]~~ under Section 76-5-403;
 1244 ~~[(f) sodomy on a child, in violation of Section 76-5-403.1;~~
 1245 ~~(g) sexual abuse of a child, in violation of Section 76-5-404;~~
 1246 ~~(h)]~~ (d) aggravated sexual assault~~[-, in violation of]~~ under Section 76-5-405;
 1247 ~~[(i)]~~ (e) incest~~[-, in violation of]~~ under Section 76-7-102; or
 1248 ~~[(j)]~~ (f) an attempt to commit ~~[any-]~~ an offense listed in Subsections ~~[(4)(a)~~
 1249 ~~through (4)(i)-]~~ (5)(a) through (e).
- 1250 ~~[(5)]~~ (6) An offense under this section is not eligible for a nonjudicial adjustment
 1251 under Section 80-6-303.5 or a referral to a youth court under Section 80-6-902.

1252 ~~[(6)]~~ (7) Except for an offense that is transferred to a district court by the juvenile
 1253 court in accordance with Section 80-6-504, the district court may enter any sentence
 1254 or combination of sentences that would have been available in juvenile court but for
 1255 the delayed reporting or delayed filing of the information in the district court.

1256 ~~[(7)]~~ (8) An offense under this section is not subject to registration under
 1257 Subsection 77-41-102(18).".

1258 Section 17. **Coordinating S.B. 213 with H.B. 395 and S.B. 200 if all pass and become law.**

1259 If S.B. 213, Criminal Justice Modifications, H.B. 395, DUI Offense Amendments,
 1260 and S.B. 200, State Commission on Criminal and Juvenile Justice Amendments, all
 1261 pass and become law:

1262 (1) the Legislature intends that, on May 1, 2024:

1263 (a) Section 63M-7-404.3 enacted in S.B. 200 be amended to read:

1264 **"63M-7-404.3. Adult sentencing and supervision length guidelines.**

1265 (1) The sentencing commission shall establish and maintain adult sentencing and
 1266 supervision length guidelines regarding:

1267 (a) the sentencing and release of offenders in order to:

1268 (i) accept public comment;

1269 (ii) relate sentencing practices and correctional resources;

1270 (iii) increase equity in sentencing;

1271 (iv) better define responsibility in sentencing; and

1272 (v) enhance the discretion of the sentencing court while preserving the role of the
 1273 Board of Pardons and Parole;

1274 (b) the length of supervision of offenders on probation or parole in order to:

1275 (i) accept public comment;

1276 (ii) increase equity in criminal supervision lengths;

1277 (iii) relate the length of supervision to an offender's progress;

1278 (iv) take into account an offender's risk of offending again;

1279 (v) relate the length of supervision to the amount of time an offender has
 1280 remained under supervision in the community; and

1281 (vi) enhance the discretion of the sentencing court while preserving the role of the
 1282 Board of Pardons and Parole; and

1283 (c) appropriate, evidence-based probation and parole supervision policies and
 1284 services that assist offenders in successfully completing supervision and reduce
 1285 incarceration rates from community supervision programs while ensuring public

1286 safety, including:

1287 (i) treatment and intervention completion determinations based on individualized

1288 case action plans;

1289 (ii) measured and consistent processes for addressing violations of conditions of

1290 supervision;

1291 (iii) processes that include using positive reinforcement to recognize an offender's

1292 progress in supervision;

1293 (iv) engaging with social services agencies and other stakeholders who provide

1294 services that meet the needs of an offender; and

1295 (v) identifying community violations that may not warrant revocation of

1296 probation or parole.

1297 (2) On or before October 31, 2024, the sentencing commission shall review and

1298 revise the supervision tools in the adult sentencing and supervision length guidelines

1299 to:

1300 (a) recommend appropriate sanctions for an individual who violates probation or

1301 parole by:

1302 (i) committing a felony offense, a misdemeanor offense described in Title 76,

1303 Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving

1304 under the influence described in Section 41-6a-502;

1305 (ii) possessing a dangerous weapon; or

1306 (iii) willfully refusing to participate in treatment ordered by the court or the Board

1307 of Pardons and Parole; and

1308 (b) recommend appropriate incentives for an individual on probation or parole

1309 that:

1310 (i) completes all conditions of probation or parole; or

1311 (ii) maintains eligible employment as defined in Section 64-13g-101.

1312 (3) The sentencing commission shall establish guidelines in the adult sentencing

1313 and supervision length guidelines that recommend an enhanced sentence that a court

1314 or the Board of Pardons and Parole should consider when determining the period in

1315 which a habitual offender, as defined in Section 77-18-102, will be incarcerated.

1316 (4) The sentencing commission shall modify:

1317 (a) the adult sentencing and supervision length guidelines to reduce recidivism for

1318 the purposes of protecting the public and ensuring efficient use of state funds; and

1319 (b) the criminal history score in the adult sentencing and supervision length

1320 guidelines to reduce recidivism, including factors in an offender's criminal history
1321 that are relevant to the accurate determination of an individual's risk of offending
1322 again."; and

1323 (b) all occurrences of the language "sentencing and supervision length guidelines
1324 in Section 63M-7-404" in Subsection 64-13-21(7)(b) in S.B. 213 be replaced with
1325 "adult sentencing and supervision length guidelines, as defined in Section
1326 63M-7-401.1"; and

1327 (2) the Legislature intends that, on July 1, 2024, Section 63M-7-404.3 enacted in
1328 S.B. 200 be amended to read:

1329 **"63M-7-404.3. Adult sentencing and supervision length guidelines.**

1330 (1) The sentencing commission shall establish and maintain adult sentencing and
1331 supervision length guidelines regarding:

1332 (a) the sentencing and release of offenders in order to:

1333 (i) accept public comment;

1334 (ii) relate sentencing practices and correctional resources;

1335 (iii) increase equity in sentencing;

1336 (iv) better define responsibility in sentencing; and

1337 (v) enhance the discretion of the sentencing court while preserving the role of the
1338 Board of Pardons and Parole;

1339 (b) the length of supervision of offenders on probation or parole in order to:

1340 (i) accept public comment;

1341 (ii) increase equity in criminal supervision lengths;

1342 (iii) relate the length of supervision to an offender's progress;

1343 (iv) take into account an offender's risk of offending again;

1344 (v) relate the length of supervision to the amount of time an offender has
1345 remained under supervision in the community; and

1346 (vi) enhance the discretion of the sentencing court while preserving the role of the
1347 Board of Pardons and Parole; and

1348 (c) appropriate, evidence-based probation and parole supervision policies and
1349 services that assist offenders in successfully completing supervision and reduce
1350 incarceration rates from community supervision programs while ensuring public
1351 safety, including:

1352 (i) treatment and intervention completion determinations based on individualized
1353 case action plans;

1354 (ii) measured and consistent processes for addressing violations of conditions of
1355 supervision;

1356 (iii) processes that include using positive reinforcement to recognize an offender's
1357 progress in supervision;

1358 (iv) engaging with social services agencies and other stakeholders who provide
1359 services that meet the needs of an offender; and

1360 (v) identifying community violations that may not warrant revocation of
1361 probation or parole.

1362 (2) (a) Before July 1, 2024, the sentencing commission shall revise and review
1363 the adult sentencing and supervision length guidelines to reflect appropriate penalties
1364 for the following offenses:

1365 (i) an interlock restricted driver operating a vehicle without an ignition interlock
1366 system, Section 41-6a-518.2;

1367 (ii) negligently operating a vehicle resulting in injury, Section 76-5-102.1; and

1368 (iii) negligently operating a vehicle resulting in death, Section 76-5-207.

1369 (b) The guidelines under Subsection (2)(a) shall consider the following:

1370 (i) the current sentencing requirements for driving under the influence of alcohol,
1371 drugs, or a combination of both as identified in Section 41-6a-505 when injury or
1372 death do not result;

1373 (ii) the degree of injury and the number of victims suffering injury or death as a
1374 result of the offense;

1375 (iii) the offender's number of previous convictions for driving under the influence
1376 related offenses as defined in Subsection 41-6a-501(2)(a); and

1377 (iv) whether the offense amounts to extreme DUI, as that term is defined in
1378 Section 41-6a-501.

1379 (3) On or before October 31, 2024, the sentencing commission shall review and
1380 revise the supervision tools in the adult sentencing and supervision length guidelines
1381 to:

1382 (a) recommend appropriate sanctions for an individual who violates probation or
1383 parole by:

1384 (i) committing a felony offense, a misdemeanor offense described in Title 76,
1385 Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving
1386 under the influence described in Section 41-6a-502;

1387 (ii) possessing a dangerous weapon; or

1388 (iii) willfully refusing to participate in treatment ordered by the court or the Board
 1389 of Pardons and Parole; and

1390 (b) recommend appropriate incentives for an individual on probation or parole
 1391 that:

1392 (i) completes all conditions of probation or parole; or

1393 (ii) maintains eligible employment as defined in Section 64-13g-101.

1394 (4) The sentencing commission shall establish guidelines in the adult sentencing
 1395 and supervision length guidelines that recommend an enhanced sentence that a court
 1396 or the Board of Pardons and Parole should consider when determining the period in
 1397 which a habitual offender, as defined in Section 77-18-102, will be incarcerated.

1398 (5) The sentencing commission shall modify:

1399 (a) the adult sentencing and supervision length guidelines to reduce recidivism for
 1400 the purposes of protecting the public and ensuring efficient use of state funds; and

1401 (b) the criminal history score in the adult sentencing and supervision length
 1402 guidelines to reduce recidivism, including factors in an offender's criminal history
 1403 that are relevant to the accurate determination of an individual's risk of offending
 1404 again."

1405 Section 18. **Coordinating S.B. 213 with H.B. 395 if S.B. 200 does not pass and become law.**

1406 If S.B. 213, Criminal Justice Modifications, and H.B. 395, DUI Offense
 1407 Amendments, both pass and become law, and S.B. 200, State Commission on
 1408 Criminal and Juvenile Justice Amendments, does not pass and become law, the
 1409 Legislature intends that, on July 1, 2024, Section 63M-7-404 be amended to read:

1410 **"63M-7-404. Purpose -- Duties.**

1411 (1) The purpose of the commission is to develop guidelines and propose
 1412 recommendations to the Legislature, the governor, and the Judicial Council regarding:

1413 (a) the sentencing and release of juvenile and adult offenders in order to:

1414 (i) respond to public comment;

1415 (ii) relate sentencing practices and correctional resources;

1416 (iii) increase equity in criminal sentencing;

1417 (iv) better define responsibility in criminal sentencing; and

1418 (v) enhance the discretion of sentencing judges while preserving the role of the
 1419 Board of Pardons and Parole and the Youth Parole Authority;

1420 (b) the length of supervision of adult offenders on probation or parole in order to:

1421 (i) increase equity in criminal supervision lengths;

- 1422 (ii) respond to public comment;
- 1423 (iii) relate the length of supervision to an offender's progress;
- 1424 (iv) take into account an offender's risk of offending again;
- 1425 (v) relate the length of supervision to the amount of time an offender has
- 1426 remained under supervision in the community; and
- 1427 (vi) enhance the discretion of the sentencing judges while preserving the role of
- 1428 the Board of Pardons and Parole; and
- 1429 (c) appropriate, evidence-based probation and parole supervision policies and
- 1430 services that assist individuals in successfully completing supervision and reduce
- 1431 incarceration rates from community supervision programs while ensuring public
- 1432 safety, including:
- 1433 (i) treatment and intervention completion determinations based on individualized
- 1434 case action plans;
- 1435 (ii) measured and consistent processes for addressing violations of conditions of
- 1436 supervision;
- 1437 (iii) processes that include using positive reinforcement to recognize an
- 1438 individual's progress in supervision;
- 1439 (iv) engaging with social services agencies and other stakeholders who provide
- 1440 services that meet offender needs; and
- 1441 (v) identifying community violations that may not warrant revocation of
- 1442 probation or parole.
- 1443 (2) (a) The commission shall modify the sentencing guidelines and supervision
- 1444 length guidelines for adult offenders to implement the recommendations of the State
- 1445 Commission on Criminal and Juvenile Justice for reducing recidivism.
- 1446 (b) The modifications under Subsection (2)(a) shall be for the purposes of
- 1447 protecting the public and ensuring efficient use of state funds.
- 1448 (3) (a) The commission shall modify the criminal history score in the sentencing
- 1449 guidelines for adult offenders to implement the recommendations of the State
- 1450 Commission on Criminal and Juvenile Justice for reducing recidivism.
- 1451 (b) The modifications to the criminal history score under Subsection (3)(a) shall
- 1452 include factors in an offender's criminal history that are relevant to the accurate
- 1453 determination of an individual's risk of offending again.
- 1454 (4) (a) The commission shall establish sentencing guidelines for periods of
- 1455 incarceration for individuals who are on probation and:

- 1456 (i) who have violated one or more conditions of probation; and
1457 (ii) whose probation has been revoked by the court.
- 1458 (b) For a situation described in Subsection (4)(a), the guidelines shall recommend
1459 that a court consider:
- 1460 (i) the seriousness of any violation of the condition of probation;
1461 (ii) the probationer's conduct while on probation; and
1462 (iii) the probationer's criminal history.
- 1463 (5) (a) The commission shall establish sentencing guidelines for periods of
1464 incarceration for individuals who are on parole and:
- 1465 (i) who have violated a condition of parole; and
1466 (ii) whose parole has been revoked by the Board of Pardons and Parole.
- 1467 (b) For a situation described in Subsection (5)(a), the guidelines shall recommend
1468 that the Board of Pardons and Parole consider:
- 1469 (i) the seriousness of any violation of the condition of parole;
1470 (ii) the individual's conduct while on parole; and
1471 (iii) the individual's criminal history.
- 1472 (6) The commission shall establish graduated and evidence-based processes to
1473 facilitate the prompt and effective response to an individual's progress in or violation
1474 of the terms of probation or parole by the adult probation and parole section of the
1475 Department of Corrections, or other supervision services provider, to implement the
1476 recommendations of the State Commission on Criminal and Juvenile Justice for
1477 reducing recidivism and incarceration, including:
- 1478 (a) responses to be used when an individual violates a condition of probation or
1479 parole;
- 1480 (b) responses to recognize positive behavior and progress related to an
1481 individual's case action plan;
- 1482 (c) when a violation of a condition of probation or parole should be reported to
1483 the court or the Board of Pardons and Parole; and
- 1484 (d) a range of sanctions that may not exceed a period of incarceration of more
1485 than:
- 1486 (i) three consecutive days; and
1487 (ii) a total of five days in a period of 30 days.
- 1488 (7) The commission shall establish graduated incentives to facilitate a prompt and
1489 effective response by the adult probation and parole section of the Department of

- 1490 Corrections to an offender's:
- 1491 (a) compliance with the terms of probation or parole; and
- 1492 (b) positive conduct that exceeds those terms.
- 1493 (8) On or before October 31, 2024, the commission shall review and revise the
- 1494 supervision tools in the guidelines to:
- 1495 (a) recommend appropriate sanctions for an individual who violates probation or
- 1496 parole by:
- 1497 (i) committing a felony offense, a misdemeanor offense described in Title 76,
- 1498 Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving
- 1499 under the influence described in Section 41-6a-502;
- 1500 (ii) possessing a dangerous weapon; or
- 1501 (iii) willfully refusing to participate in treatment ordered by the court or the Board
- 1502 of Pardons and Parole; and
- 1503 (b) recommend appropriate incentives for an individual on probation or parole
- 1504 that:
- 1505 (i) completes all conditions of probation or parole; or
- 1506 (ii) maintains eligible employment as defined in Section 64-13g-101.
- 1507 [~~8~~] (9) (a) The commission shall establish guidelines, including sanctions and
- 1508 incentives, to appropriately respond to negative and positive behavior of juveniles
- 1509 who are:
- 1510 (i) nonjudicially adjusted;
- 1511 (ii) placed on diversion;
- 1512 (iii) placed on probation;
- 1513 (iv) placed on community supervision;
- 1514 (v) placed in an out-of-home placement; or
- 1515 (vi) placed in a secure care facility.
- 1516 (b) In establishing guidelines under this Subsection [~~8~~] (9), the commission
- 1517 shall consider:
- 1518 (i) the seriousness of the negative and positive behavior;
- 1519 (ii) the juvenile's conduct post-adjudication; and
- 1520 (iii) the delinquency history of the juvenile.
- 1521 (c) The guidelines shall include:
- 1522 (i) responses that are swift and certain;
- 1523 (ii) a continuum of community-based options for juveniles living at home;

- 1524 (iii) responses that target the individual's criminogenic risk and needs; and
1525 (iv) incentives for compliance, including earned discharge credits.
- 1526 ~~[(9)]~~ (10) The commission shall establish and maintain supervision length
1527 guidelines in accordance with this section.
- 1528 ~~[(10)]~~ (11) (a) The commission shall create sentencing guidelines and supervision
1529 length guidelines for the following financial and property offenses for which a
1530 pecuniary loss to a victim may exceed \$50,000:
- 1531 (i) securities fraud, Sections 61-1-1 and 61-1-21;
 - 1532 (ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment
1533 adviser representative, Sections 61-1-3 and 61-1-21;
 - 1534 (iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;
 - 1535 (iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1,
1536 Assault and Related Offenses;
 - 1537 (v) arson, Section 76-6-102;
 - 1538 (vi) burglary, Section 76-6-202;
 - 1539 (vii) theft under Title 76, Chapter 6, Part 4, Theft;
 - 1540 (viii) forgery, Section 76-6-501;
 - 1541 (ix) unlawful dealing of property by a fiduciary, Section 76-6-513;
 - 1542 (x) insurance fraud, Section 76-6-521;
 - 1543 (xi) computer crimes, Section 76-6-703;
 - 1544 (xii) mortgage fraud, Section 76-6-1203;
 - 1545 (xiii) pattern of unlawful activity, Sections 76-10-1603 and 76-10-1603.5;
 - 1546 (xiv) communications fraud, Section 76-10-1801;
 - 1547 (xv) money laundering, Section 76-10-1904; and
 - 1548 (xvi) other offenses in the discretion of the commission.
- 1549 (b) The guidelines described in Subsection ~~[(10)(a)]~~ (11)(a) shall include a
1550 sentencing matrix with proportionate escalating sanctions based on the amount of a
1551 victim's loss.
- 1552 (c) On or before August 1, 2022, the commission shall publish for public
1553 comment the guidelines described in Subsection ~~[(10)(a)]~~ (11)(a).
- 1554 ~~[(11)]~~ (12) (a) Before January 1, 2023, the commission shall study the offenses of
1555 sexual exploitation of a minor and aggravated sexual exploitation of a minor under
1556 Sections 76-5b-201 and 76-5b-201.1.
- 1557 (b) The commission shall update sentencing and release guidelines and juvenile

1558 disposition guidelines to reflect appropriate sanctions for an offense listed in
1559 Subsection [~~(11)(a)~~] (12)(a), including the application of aggravating and mitigating
1560 factors specific to the offense.

1561 (13) The commission shall establish guidelines that recommend an enhanced
1562 sentence that a court or the Board of Pardons and Parole should consider when
1563 determining the period in which a habitual offender, as defined in Section 77-18-102,
1564 will be incarcerated.

1565 (14) (a) Before July 1, 2024, the sentencing commission shall review and revise
1566 the commission's sentencing and supervision length guidelines to reflect appropriate
1567 penalties for the following offenses:

1568 (i) an interlock restricted driver operating a vehicle without an ignition interlock
1569 system, Section 41-6a-518.2;

1570 (ii) negligently operating a vehicle resulting in death, Section 76-5-207; and

1571 (iii) negligently operating a vehicle resulting in death, Section 76-5-207.

1572 (b) The guidelines under Subsection (14)(a) shall consider the following:

1573 (i) the current sentencing requirements for driving under the influence of alcohol,
1574 drugs, or a combination of both as identified in Section 41-6a-505 when injury or
1575 death do not result;

1576 (ii) the degree of injury and the number of victims suffering injury or death as a
1577 result of the offense;

1578 (iii) the offender's number of previous convictions for driving under the influence
1579 related offenses including those defined in Subsection 41-6a-501(2)(a); and

1580 (iv) whether the offense amounts to extreme DUI, as that term is defined in
1581 Section 41-6a-501."

1582 Section 19. **Coordinating S.B. 213 with S.B. 200 if H.B. 395 does not pass and become law.**

1583 If S.B. 213, Criminal Justice Modifications, and S.B. 200, State Commission on
1584 Criminal and Juvenile Justice Amendments, both pass and become law, and H.B. 395,
1585 DUI Offense Amendments, does not pass and become law, the Legislature intends
1586 that, on May 1, 2024:

1587 (1) Section 63M-7-404.3 enacted in S.B. 200 be amended to read:

1588 **"63M-7-404.3. Adult sentencing and supervision length guidelines.**

1589 (1) The sentencing commission shall establish and maintain adult sentencing and
1590 supervision length guidelines regarding:

1591 (a) the sentencing and release of offenders in order to:

- 1592 (i) accept public comment;
1593 (ii) relate sentencing practices and correctional resources;
1594 (iii) increase equity in sentencing;
1595 (iv) better define responsibility in sentencing; and
1596 (v) enhance the discretion of the sentencing court while preserving the role of the
1597 Board of Pardons and Parole;
- 1598 (b) the length of supervision of offenders on probation or parole in order to:
1599 (i) accept public comment;
1600 (ii) increase equity in criminal supervision lengths;
1601 (iii) relate the length of supervision to an offender's progress;
1602 (iv) take into account an offender's risk of offending again;
1603 (v) relate the length of supervision to the amount of time an offender has
1604 remained under supervision in the community; and
1605 (vi) enhance the discretion of the sentencing court while preserving the role of the
1606 Board of Pardons and Parole; and
- 1607 (c) appropriate, evidence-based probation and parole supervision policies and
1608 services that assist offenders in successfully completing supervision and reduce
1609 incarceration rates from community supervision programs while ensuring public
1610 safety, including:
- 1611 (i) treatment and intervention completion determinations based on individualized
1612 case action plans;
1613 (ii) measured and consistent processes for addressing violations of conditions of
1614 supervision;
1615 (iii) processes that include using positive reinforcement to recognize an offender's
1616 progress in supervision;
1617 (iv) engaging with social services agencies and other stakeholders who provide
1618 services that meet the needs of an offender; and
1619 (v) identifying community violations that may not warrant revocation of
1620 probation or parole.
- 1621 (2) On or before October 31, 2024, the sentencing commission shall review and
1622 revise the supervision tools in the adult sentencing and supervision length guidelines
1623 to:
- 1624 (a) recommend appropriate sanctions for an individual who violates probation or
1625 parole by:

1626 (i) committing a felony offense, a misdemeanor offense described in Title 76,
1627 Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving
1628 under the influence described in Section 41-6a-502;
1629 (ii) possessing a dangerous weapon; or
1630 (iii) willfully refusing to participate in treatment ordered by the court or the Board
1631 of Pardons and Parole; and
1632 (b) recommend appropriate incentives for an individual on probation or parole
1633 that:
1634 (i) completes all conditions of probation or parole; or
1635 (ii) maintains eligible employment as defined in Section 64-13g-101.
1636 (3) The sentencing commission shall establish guidelines in the adult sentencing
1637 and supervision length guidelines that recommend an enhanced sentence that a court
1638 or the Board of Pardons and Parole should consider when determining the period in
1639 which a habitual offender, as defined in Section 77-18-102, will be incarcerated.
1640 (4) The sentencing commission shall modify:
1641 (a) the adult sentencing and supervision length guidelines to reduce recidivism for
1642 the purposes of protecting the public and ensuring efficient use of state funds; and
1643 (b) the criminal history score in the adult sentencing and supervision length
1644 guidelines to reduce recidivism, including factors in an offender's criminal history
1645 that are relevant to the accurate determination of an individual's risk of offending
1646 again."; and
1647 (2) all occurrences of the language "sentencing and supervision length guidelines
1648 in Section 63M-7-404" in Subsection 64-13-21(7)(b) in S.B. 213 be replaced with
1649 "adult sentencing and supervision length guidelines, as defined in Section
1650 63M-7-401.1."