

Representative Steve Eliason proposes the following substitute bill:

HEALTH AND HUMAN SERVICES AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael S. Kennedy

House Sponsor: Steve Eliason

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes technical and corresponding amendments;
- ▶ clarifies provisions that the Department of Health and Human Services has identified as not applicable or incongruous after the 2023 recodification pertaining to health and human services;
- ▶ creates the Division of Health Access within the Department of Health and Human Services;
- ▶ removes the authority of the chair of the Utah Substance Use and Mental Health Advisory Council to establish the goals and budget for an application for a federal grant, in a situation where the six-member committee comprised of individuals from the Department of Health and Human Services and local health departments is unable to agree by two-thirds majority on the goals and budget for a reviewable application for a federal grant;



- 26 ▶ modifies the prescribed procedures for the Department of Health and Family
27 Services' review of an individual's appeal of the Compassionate Use Board's denial
28 of the individual's application for a medical cannabis card;
- 29 ▶ creates the Office of Licensing within the Division of Licensing and Background
30 Checks;
- 31 ▶ creates the Office of Background Processing within the Division of Licensing and
32 Background Checks;
- 33 ▶ removes education, experience, and knowledge requirements to serve as the director
34 of Division of Licensing and Background Checks;
- 35 ▶ modifies the definition of "applicant" for individual's seeking approval to have
36 direct access to children or vulnerable adults;
- 37 ▶ modifies the terms of background checks and ongoing fingerprint monitoring to
38 which an applicant must consent in connection with applying to the Office of
39 Background Processing for direct access to children or vulnerable adults;
- 40 ▶ requires the Office of Background Processing to search the Sex and Kidnap
41 Offender Registry as part of its duties in performing a background check;
- 42 ▶ prescribes other procedures for the Office of Background Processing to follow in
43 performing a background check;
- 44 ▶ modifies the parameters under which an applicant with a criminal history, or an
45 applicant who is listed on a child abuse and neglect registry of any state, is screened
46 by the Office of Background Processing or may qualify for direct access to children
47 and vulnerable adults;
- 48 ▶ modifies the numerical limit of foster children who may reside in a home, and
49 establishes when those limits may be exceeded;
- 50 ▶ reduces from two years to 180 days the length of time a certification for direct
51 patient access is valid before renewal is required;
- 52 ▶ modifies the definition of "rural county" to mean counties of the second through
53 sixth classes (i.e. classes with populations less than 175,000) and no longer to mean
54 counties with populations less than 50,000;
- 55 ▶ modifies the definition of "rural hospital" as a result of modifying the definition of
56 "rural county;"

- 57 ▶ removes the requirement that the executive director of the Department of Health
- 58 and Human Services consider the advice of the chairman of the Department of
- 59 Pathology at the University of Utah and the dean of the law school at the University
- 60 of Utah;
- 61 ▶ requires that a county executive obtain the approval of the state's chief medical
- 62 examiner before appointing a county medical examiner;
- 63 ▶ clarifies which records of a medical examiner are subject to production by the
- 64 medical examiner, when a portion of the medical examiner's record relates to an
- 65 issue of public health or safety;
- 66 ▶ permits a medical examiner, prior to taking required steps pertaining to
- 67 identification of an unidentified body, to release the unidentified body to the county
- 68 in which the body was found;
- 69 ▶ removes the requirement that a county or funeral director adopt the identification
- 70 number the medical examiner assigned to an unidentified body;
- 71 ▶ removes the requirement that a county inform the medical examiner of certain
- 72 information pertaining to the county's disposition of an unidentified body;
- 73 ▶ removes the requirement that a medical examiner maintain a file for unidentified
- 74 bodies;
- 75 ▶ expands the scope of individuals from whom a psychological autopsy examiner may
- 76 gather information regarding a decedent's death; and
- 77 ▶ expands the scope of information a psychological autopsy examiner may gather
- 78 regarding a decedent's death.

79 **Money Appropriated in this Bill:**

80 None

81 **Other Special Clauses:**

82 This bill provides a special effective date.

83 **Utah Code Sections Affected:**

84 AMENDS:

85 **4-41a-102**, as last amended by Laws of Utah 2023, Chapters 273, 313 and 327

86 **4-41a-1001**, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and
87 amended by Laws of Utah 2023, Chapters 273, 307 and last amended by

88 Coordination Clause, Laws of Utah 2023, Chapter 307
89 **4-41a-1102**, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and
90 amended by Laws of Utah 2023, Chapters 273, 307 and last amended by
91 Coordination Clause, Laws of Utah 2023, Chapter 307
92 **4-41a-1202**, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and
93 amended by Laws of Utah 2023, Chapters 273, 307 and last amended by
94 Coordination Clause, Laws of Utah 2023, Chapter 307
95 **17-43-203**, as last amended by Laws of Utah 2004, Chapter 80
96 **17-43-301**, as last amended by Laws of Utah 2023, Chapters 15, 327
97 **26A-1-112**, as last amended by Laws of Utah 2011, Chapter 297
98 **26A-1-113**, as last amended by Laws of Utah 2022, Chapter 415
99 **26A-1-120**, as last amended by Laws of Utah 2002, Chapter 249
100 **26B-1-202**, as last amended by Laws of Utah 2023, Chapter 302
101 **26B-1-204 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters
102 249, 305
103 **26B-1-204 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 249,
104 305 and 310
105 **26B-1-207**, as last amended by Laws of Utah 2023, Chapter 272
106 **26B-1-237**, as renumbered and amended by Laws of Utah 2023, Chapter 305
107 **26B-1-324**, as last amended by Laws of Utah 2023, Chapter 270 and renumbered and
108 amended by Laws of Utah 2023, Chapter 305
109 **26B-1-414**, as last amended by Laws of Utah 2023, Chapter 249 and renumbered and
110 amended by Laws of Utah 2023, Chapter 305
111 **26B-1-421**, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered
112 and amended by Laws of Utah 2023, Chapter 305
113 **26B-1-422.1**, as enacted by Laws of Utah 2023, Chapter 269 and last amended by
114 Coordination Clause, Laws of Utah 2023, Chapter 305
115 **26B-1-435**, as enacted by Laws of Utah 2023, Chapter 273
116 **26B-1-435.1**, as enacted by Laws of Utah 2023, Chapter 273
117 **26B-1-502**, as renumbered and amended by Laws of Utah 2023, Chapter 305
118 **26B-2-101**, as last amended by Laws of Utah 2023, Chapter 305

- 119 **26B-2-103**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 120 **26B-2-104**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 121 **26B-2-120**, as last amended by Laws of Utah 2023, Chapter 344 and renumbered and
- 122 amended by Laws of Utah 2023, Chapter 305
- 123 **26B-2-122**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 124 **26B-2-128**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 125 **26B-2-201**, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and
- 126 amended by Laws of Utah 2023, Chapter 305
- 127 **26B-2-202**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 128 **26B-2-204**, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and
- 129 amended by Laws of Utah 2023, Chapter 305
- 130 **26B-2-238**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 131 **26B-2-239**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 132 **26B-2-240**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 133 **26B-2-241 (Superseded 07/01/24)**, as renumbered and amended by Laws of Utah
- 134 2023, Chapter 305
- 135 **26B-2-241 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 310
- 136 and renumbered and amended by Laws of Utah 2023, Chapter 305
- 137 **26B-3-114**, as renumbered and amended by Laws of Utah 2023, Chapter 306
- 138 **26B-3-212**, as last amended by Laws of Utah 2023, Chapter 316 and renumbered and
- 139 amended by Laws of Utah 2023, Chapter 306
- 140 **26B-4-118 (Superseded 07/01/24)**, as renumbered and amended by Laws of Utah
- 141 2023, Chapter 307
- 142 **26B-4-136 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 16
- 143 and renumbered and amended by Laws of Utah 2023, Chapter 307
- 144 **26B-4-152 (Superseded 07/01/24)**, as renumbered and amended by Laws of Utah
- 145 2023, Chapter 307
- 146 **26B-4-154 (Superseded 07/01/24)**, as renumbered and amended by Laws of Utah
- 147 2023, Chapter 307
- 148 **26B-4-201**, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered
- 149 and amended by Laws of Utah 2023, Chapter 307

150 **26B-4-202**, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered
151 and amended by Laws of Utah 2023, Chapter 307 and last amended by
152 Coordination Clause, Laws of Utah 2023, Chapter 307

153 **26B-4-213**, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered
154 and amended by Laws of Utah 2023, Chapter 307 and last amended by
155 Coordination Clause, Laws of Utah 2023, Chapter 307

156 **26B-4-214**, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and
157 amended by Laws of Utah 2023, Chapter 307

158 **26B-4-222**, as last amended by Laws of Utah 2023, Chapters 273, 281 and renumbered
159 and amended by Laws of Utah 2023, Chapter 307

160 **26B-4-245**, as enacted by Laws of Utah 2023, Chapter 273

161 **26B-4-701**, as renumbered and amended by Laws of Utah 2023, Chapter 307

162 **26B-5-101**, as last amended by Laws of Utah 2023, Chapter 308

163 **26B-5-403**, as renumbered and amended by Laws of Utah 2023, Chapter 308

164 **26B-6-401**, as renumbered and amended by Laws of Utah 2023, Chapter 308

165 **26B-7-213**, as renumbered and amended by Laws of Utah 2023, Chapter 308

166 **26B-7-215**, as renumbered and amended by Laws of Utah 2023, Chapter 308

167 **26B-8-201**, as renumbered and amended by Laws of Utah 2023, Chapter 306

168 **26B-8-202**, as renumbered and amended by Laws of Utah 2023, Chapter 306

169 **26B-8-203**, as renumbered and amended by Laws of Utah 2023, Chapter 306

170 **26B-8-205**, as renumbered and amended by Laws of Utah 2023, Chapter 306

171 **26B-8-207**, as renumbered and amended by Laws of Utah 2023, Chapter 306

172 **26B-8-210**, as renumbered and amended by Laws of Utah 2023, Chapter 306

173 **26B-8-217**, as renumbered and amended by Laws of Utah 2023, Chapter 306

174 **26B-8-221**, as renumbered and amended by Laws of Utah 2023, Chapter 306

175 **26B-8-223**, as renumbered and amended by Laws of Utah 2023, Chapter 306

176 **26B-8-225**, as renumbered and amended by Laws of Utah 2023, Chapter 306

177 **26B-8-227**, as renumbered and amended by Laws of Utah 2023, Chapter 306

178 **26B-8-229**, as renumbered and amended by Laws of Utah 2023, Chapter 306

179 **34A-6-107**, as renumbered and amended by Laws of Utah 1997, Chapter 375

180 **53-2a-802**, as last amended by Laws of Utah 2022, Chapter 447

181 **53-2d-404 (Effective 07/01/24)**, as renumbered and amended by Laws of Utah 2023,
182 Chapters 307, 310
183 **53-2d-503 (Effective 07/01/24)**, as renumbered and amended by Laws of Utah 2023,
184 Chapters 307, 310
185 **53-2d-703 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 16
186 and renumbered and amended by Laws of Utah 2023, Chapters 307, 310
187 **53-10-404**, as last amended by Laws of Utah 2021, Chapter 262
188 **53-10-407**, as last amended by Laws of Utah 2021, Chapter 262
189 **53E-10-301**, as last amended by Laws of Utah 2021, Chapter 379
190 **53G-8-211**, as last amended by Laws of Utah 2023, Chapter 161
191 **53G-8-213**, as enacted by Laws of Utah 2023, Chapter 161
192 **53G-10-406**, as last amended by Laws of Utah 2022, Chapter 447
193 **58-17b-309.7**, as last amended by Laws of Utah 2023, Chapter 328
194 **58-17b-620**, as last amended by Laws of Utah 2023, Chapter 328
195 **63B-3-102**, as last amended by Laws of Utah 2014, Chapter 196
196 **63B-3-301**, as last amended by Laws of Utah 2023, Chapter 369
197 **63B-4-102**, as last amended by Laws of Utah 2014, Chapter 196
198 **63B-11-702**, as last amended by Laws of Utah 2003, Chapter 171
199 **63M-7-208**, as last amended by Laws of Utah 2023, Chapter 161
200 **63M-7-401**, as last amended by Laws of Utah 2021, Chapter 173
201 **63M-7-601**, as last amended by Laws of Utah 2023, Chapter 150
202 **63M-7-702**, as last amended by Laws of Utah 2023, Chapter 150
203 **63M-7-802**, as enacted by Laws of Utah 2023, Chapter 155
204 **67-5b-101**, as last amended by Laws of Utah 2016, Chapter 290
205 **76-3-401.5**, as enacted by Laws of Utah 2021, Chapter 37 and last amended by
206 Coordination Clause, Laws of Utah 2021, Chapter 261
207 **76-5-101**, as last amended by Laws of Utah 2022, Chapter 181
208 **76-5-413**, as last amended by Laws of Utah 2022, Chapters 181, 255
209 **76-8-311.5**, as renumbered and amended by Laws of Utah 2021, Chapter 261
210 **77-16b-102**, as last amended by Laws of Utah 2021, Chapter 262
211 **77-38-3**, as last amended by Laws of Utah 2023, Chapter 426

- 212 **77-41-102 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 123
- 213 **77-41-102 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 123,
- 214 128
- 215 **78A-6-212**, as renumbered and amended by Laws of Utah 2021, Chapter 261
- 216 **78B-7-804**, as last amended by Laws of Utah 2023, Chapters 237, 426
- 217 **78B-7-805**, as last amended by Laws of Utah 2021, Chapter 159 and last amended by
- 218 Coordination Clause, Laws of Utah 2021, Chapter 159
- 219 **78B-24-307**, as last amended by Laws of Utah 2023, Chapter 330
- 220 **78B-24-308**, as last amended by Laws of Utah 2023, Chapter 330
- 221 **80-2-301**, as last amended by Laws of Utah 2023, Chapter 280
- 222 **80-2-703**, as renumbered and amended by Laws of Utah 2022, Chapter 334
- 223 **80-2-1001**, as last amended by Laws of Utah 2023, Chapters 309, 330
- 224 **80-2-1002**, as last amended by Laws of Utah 2023, Chapter 330
- 225 **80-3-409**, as last amended by Laws of Utah 2023, Chapters 309, 320
- 226 **80-5-102**, as last amended by Laws of Utah 2022, Chapter 255
- 227 **80-5-103**, as renumbered and amended by Laws of Utah 2021, Chapter 261
- 228 **80-5-401**, as last amended by Laws of Utah 2023, Chapter 93
- 229 **80-6-102**, as last amended by Laws of Utah 2022, Chapter 155

230

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

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

233 **4-41a-102. Definitions.**

234 As used in this chapter:

- 235 (1) "Adulterant" means any poisonous or deleterious substance in a quantity that may
- 236 be injurious to health, including:
 - 237 (a) pesticides;
 - 238 (b) heavy metals;
 - 239 (c) solvents;
 - 240 (d) microbial life;
 - 241 (e) artificially derived cannabinoid;
 - 242 (f) toxins; or

243 (g) foreign matter.

244 (2) "Advertise" or "advertising" means information provided by a person in any

245 medium:

246 (a) to the public; and

247 (b) that is not age restricted to an individual who is at least 21 years old.

248 [~~2~~] (3) "Advisory board" means the Medical Cannabis Policy Advisory Board created
249 in Section [26B-1-435](#).

250 [~~3~~] (4) (a) "Artificially derived cannabinoid" means a chemical substance that is
251 created by a chemical reaction that changes the molecular structure of any chemical substance
252 derived from the cannabis plant.

253 (b) "Artificially derived cannabinoid" does not include:

254 (i) a naturally occurring chemical substance that is separated from the cannabis plant
255 by a chemical or mechanical extraction process; or

256 (ii) a cannabinoid that is produced by decarboxylation from a naturally occurring
257 cannabinoid acid without the use of a chemical catalyst.

258 [~~4~~] (5) "Cannabis Research Review Board" means the Cannabis Research Review
259 Board created in Section [26B-1-420](#).

260 [~~5~~] (6) "Cannabis" means the same as that term is defined in Section [26B-4-201](#).

261 [~~6~~] (7) "Cannabis concentrate" means:

262 (a) the product of any chemical or physical process applied to naturally occurring
263 biomass that concentrates or isolates the cannabinoids contained in the biomass; and

264 (b) any amount of a natural cannabinoid or artificially derived cannabinoid in an
265 artificially derived cannabinoid's purified state.

266 [~~7~~] (8) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is
267 not intended to be sold as a cannabis plant product.

268 [~~8~~] (9) "Cannabis cultivation facility" means a person that:

269 (a) possesses cannabis;

270 (b) grows or intends to grow cannabis; and

271 (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis
272 processing facility, or a medical cannabis research licensee.

273 [~~9~~] (10) "Cannabis cultivation facility agent" means an individual who:

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

276 [~~(10)~~] (11) "Cannabis derivative product" means a product made using cannabis
277 concentrate.

278 [~~(11)~~] (12) "Cannabis plant product" means any portion of a cannabis plant intended to
279 be sold in a form that is recognizable as a portion of a cannabis plant.

280 [~~(12)~~] (13) "Cannabis processing facility" means a person that:

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

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

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

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

287 [~~(13)~~] (14) "Cannabis processing facility agent" means an individual who:

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

290 [~~(14)~~] (15) "Cannabis product" means the same as that term is defined in Section
291 [26B-4-201](#).

292 [~~(15)~~] (16) "Cannabis production establishment" means a cannabis cultivation facility,
293 a cannabis processing facility, or an independent cannabis testing laboratory.

294 [~~(16)~~] (17) "Cannabis production establishment agent" means a cannabis cultivation
295 facility agent, a cannabis processing facility agent, or an independent cannabis testing
296 laboratory agent.

297 [~~(17)~~] (18) "Cannabis production establishment agent registration card" means a
298 registration card that the department issues that:

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

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

302 [~~(18)~~] (19) "Community location" means a public or private elementary or secondary
303 school, a church, a public library, a public playground, or a public park.

304 [~~(19)~~] (20) "Cultivation space" means, quantified in square feet, the horizontal area in

305 which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area
306 if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above
307 other plants in multiple levels.

308 ~~[(20)]~~ (21) "Delivery address" means:

309 (a) for a medical cannabis cardholder who is not a facility, the medical cannabis
310 cardholder's home address; or

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

312 ~~[(21)]~~ (22) "Department" means the Department of Agriculture and Food.

313 ~~[(22)]~~ (23) "Family member" means a parent, step-parent, spouse, child, sibling,
314 step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law,
315 brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

316 ~~[(23)]~~ (24) "Home delivery medical cannabis pharmacy" means a medical cannabis
317 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical
318 cannabis shipments to a delivery address to fulfill electronic orders that the state central patient
319 portal facilitates.

320 ~~[(24)]~~ (25) (a) "Independent cannabis testing laboratory" means a person that:

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

322 (ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to
323 conduct a chemical or other analysis of the cannabis or cannabis product.

324 (b) "Independent cannabis testing laboratory" includes a laboratory that the department
325 or a research university operates in accordance with Subsection [4-41a-201\(14\)](#).

326 ~~[(25)]~~ (26) "Independent cannabis testing laboratory agent" means an individual who:
327 holds a valid cannabis production establishment agent registration card with an
328 independent cannabis testing laboratory designation.

329 ~~[(26)]~~ (27) "Inventory control system" means a system described in Section [4-41a-103](#).

330 ~~[(27)]~~ (28) "Licensing board" or "board" means the Cannabis Production Establishment
331 Licensing Advisory Board created in Section [4-41a-201.1](#).

332 ~~[(28)]~~ (29) "Medical cannabis" means the same as that term is defined in Section
333 [26B-4-201](#).

334 ~~[(29)]~~ (30) "Medical cannabis card" means the same as that term is defined in Section
335 [26B-4-201](#).

336 [~~(30)~~] (31) "Medical cannabis courier" means a courier that:

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

338 (b) contracts with a home delivery medical cannabis pharmacy to deliver medical
339 cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

340 [~~(31)~~] (32) "Medical cannabis courier agent" means an individual who:

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

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

343 [~~(32)~~] (33) "Medical cannabis pharmacy" means the same as that term is defined in
344 Section 26B-4-201.

345 [~~(33)~~] (34) "Medical cannabis pharmacy agent" means the same as that term is defined
346 in Section 26B-4-201.

347 [~~(34)~~] (35) "Medical cannabis research license" means a license that the department
348 issues to a research university for the purpose of obtaining and possessing medical cannabis for
349 academic research.

350 [~~(35)~~] (36) "Medical cannabis research licensee" means a research university that the
351 department licenses to obtain and possess medical cannabis for academic research, in
352 accordance with Section 4-41a-901.

353 [~~(36)~~] (37) "Medical cannabis shipment" means a shipment of medical cannabis or a
354 medical cannabis product that a home delivery medical cannabis pharmacy or a medical
355 cannabis courier delivers to a delivery address to fulfill an electronic medical cannabis order
356 that the state central patient portal facilitates.

357 [~~(37)~~] (38) "Medical cannabis treatment" means the same as that term is defined in
358 Section 26B-4-201.

359 [~~(38)~~] (39) "Medicinal dosage form" means the same as that term is defined in Section
360 26B-4-201.

361 [~~(39)~~] (40) "Pharmacy medical provider" means the same as that term is defined in
362 Section 26B-4-201.

363 [~~(40)~~] (41) "Qualified medical provider" means the same as that term is defined in
364 Section 26B-4-201.

365 [~~(41)~~] (42) "Qualified Production Enterprise Fund" means the fund created in Section
366 4-41a-104.

367 [~~(42)~~] (43) "Recommending medical provider" means the same as that term is defined
368 in Section 26B-4-201.

369 [~~(43)~~] (44) "Research university" means the same as that term is defined in Section
370 53B-7-702 and a private, nonprofit college or university in the state that:

- 371 (a) is accredited by the Northwest Commission on Colleges and Universities;
372 (b) grants doctoral degrees; and
373 (c) has a laboratory containing or a program researching a schedule I controlled
374 substance described in Section 58-37-4.

375 [~~(44)~~] (45) "State electronic verification system" means the system described in Section
376 26B-4-202.

377 (46) "Targeted marketing" means the promotion by a medical cannabis pharmacy of a
378 medical cannabis product, medical cannabis brand, or a medical cannabis device using any of
379 the following methods:

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

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

383 (i) held inside a medical cannabis pharmacy; and

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

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

386 (i) a medical cannabis pharmacy; and

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

388 [~~(45)~~] (47) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in
389 Section 4-41-102.

390 [~~(46)~~] (48) "THC analog" means the same as that term is defined in Section 4-41-102.

391 [~~(47)~~] (49) "Total composite tetrahydrocannabinol" means all detectable forms of
392 tetrahydrocannabinol.

393 [~~(48)~~] (50) "Total tetrahydrocannabinol" or "total THC" means the same as that term is
394 defined in Section 4-41-102.

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

396 **4-41a-1001. Medical cannabis pharmacy -- License -- Eligibility.**

397 (1) A person may not operate as a medical cannabis pharmacy without a license that

398 the department issues under this part.

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

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

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

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

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

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

411 (B) for a privately held company, a financial or voting interest in the proposed medical
412 cannabis pharmacy; or

413 (C) has the power to direct or cause the management or control of a proposed medical
414 cannabis pharmacy;

415 (iii) for each application that the applicant submits to the department, a statement from
416 the applicant that the applicant will obtain and maintain:

417 (A) a performance bond in the amount of \$100,000 issued by a surety authorized to
418 transact surety business in the state; or

419 (B) a liquid cash account in the amount of \$100,000 with a financial institution;

420 (iv) an operating plan that:

421 (A) complies with Section 4-41a-1004;

422 (B) includes operating procedures to comply with the operating requirements for a
423 medical cannabis pharmacy described in this part and with a relevant municipal or county law
424 that is consistent with Section 4-41a-1106; and

425 (C) the department approves;

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

428 (vi) a description of any investigation or adverse action taken by any licensing

429 jurisdiction, government agency, law enforcement agency, or court in any state for any
430 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
431 or businesses.

432 (c) (i) A person may not locate a medical cannabis pharmacy:

433 (A) within 200 feet of a community location; or

434 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
435 as primarily residential.

436 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
437 from the nearest entrance to the medical cannabis pharmacy establishment by following the
438 shortest route of ordinary pedestrian travel to the property boundary of the community location
439 or residential area.

440 (iii) The department may grant a waiver to reduce the proximity requirements in
441 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible
442 for the applicant to [site] cite the proposed medical cannabis pharmacy without the waiver.

443 (iv) An applicant for a license under this section shall provide evidence of compliance
444 with the proximity requirements described in Subsection (2)(c)(i).

445 (d) The department may not issue a license to an eligible applicant that the department
446 has selected to receive a license until the selected eligible applicant complies with the bond or
447 liquid cash requirement described in Subsection (2)(b)(iii).

448 (e) If the department receives more than one application for a medical cannabis
449 pharmacy within the same city or town, the department shall consult with the local land use
450 authority before approving any of the applications pertaining to that city or town.

451 (3) If the department selects an applicant for a medical cannabis pharmacy license
452 under this section, the department shall:

453 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
454 4-41a-104(5), the department sets in accordance with Section 63J-1-504;

455 (b) notify the Department of Public Safety of the license approval and the names of
456 each individual described in Subsection (2)(b)(ii); and

457 (c) charge the licensee a fee in an amount that, subject to Subsection 4-41a-104(5), the
458 department sets in accordance with Section 63J-1-504, for any change in location, ownership,
459 or company structure.

460 (4) The department may not issue a license to operate a medical cannabis pharmacy to
461 an applicant if an individual described in Subsection (2)(b)(ii):

462 (a) has been convicted under state or federal law of:

463 (i) a felony; or

464 (ii) after December 3, 2018, a misdemeanor for drug distribution;

465 (b) is younger than 21 years old; or

466 (c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

467 (5) (a) If an applicant for a medical cannabis pharmacy license under this section holds
468 another license under this chapter, the department may not give preference to the applicant
469 based on the applicant's status as a holder of the license.

470 (b) If an applicant for a medical cannabis pharmacy license under this section holds a
471 license to operate a cannabis cultivation facility under this section, the department may give
472 consideration to the applicant's status as a holder of the license if:

473 (i) the applicant demonstrates that a decrease in costs to patients is more likely to result
474 from the applicant's vertical integration than from a more competitive marketplace; and

475 (ii) the department finds multiple other factors, in addition to the existing license, that
476 support granting the new license.

477 (6) [~~(a)~~] The department may revoke a license under this part:

478 [~~(i)~~] (a) if the medical cannabis pharmacy does not begin operations within one year
479 after the day on which the department issues an announcement of the department's intent to
480 award a license to the medical cannabis pharmacy;

481 [~~(ii)~~] (b) after the third the same violation of this chapter in any of the licensee's
482 licensed cannabis production establishments or medical cannabis pharmacies;

483 [~~(iii)~~] (c) if an individual described in Subsection (2)(b)(ii) is convicted, while the
484 license is active, under state or federal law of:

485 [~~(A)~~] (i) a felony; or

486 [~~(B)~~] (ii) after December 3, 2018, a misdemeanor for drug distribution;

487 [~~(iv)~~] (d) if the licensee fails to provide the information described in Subsection
488 (2)(b)(vi) at the time of application, or fails to supplement the information described in
489 Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission
490 of the application within 14 calendar days after the licensee receives notice of the investigation

491 or adverse action;

492 [~~(v)~~] (e) if the medical cannabis pharmacy demonstrates a willful or reckless disregard
493 for the requirements of this chapter or the rules the department makes in accordance with this
494 chapter; or

495 [~~(vi)~~] (f) if, after a change of ownership described in Subsection (11)(c), the
496 department determines that the medical cannabis pharmacy no longer meets the minimum
497 standards for licensure and operation of the medical cannabis pharmacy described in this
498 chapter.

499 [~~(b) The department shall rescind a notice of an intent to issue a license under this part
500 to an applicant or revoke a license issued under this part if the associated medical cannabis
501 pharmacy does not begin operation on or before June 1, 2021.~~]

502 (7) (a) A person who receives a medical cannabis pharmacy license under this chapter,
503 if the municipality or county where the licensed medical cannabis pharmacy will be located
504 requires a local land use permit, shall submit to the department a copy of the licensee's
505 approved application for the land use permit within 120 days after the day on which the
506 department issues the license.

507 (b) If a licensee fails to submit to the department a copy the licensee's approved land
508 use permit application in accordance with Subsection (7)(a), the department may revoke the
509 licensee's license.

510 (8) The department shall deposit the proceeds of a fee imposed by this section into the
511 Qualified Production Enterprise Fund.

512 (9) The department shall begin accepting applications under this part on or before
513 March 1, 2020.

514 (10) (a) The department's authority to issue a license under this section is plenary and is
515 not subject to review.

516 (b) Notwithstanding Subsection (2), the decision of the department to award a license
517 to an applicant is not subject to:

518 (i) Title 63G, Chapter 6a, Part 16, Protests; or

519 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

520 (11) (a) A medical cannabis pharmacy license is not transferrable or assignable.

521 (b) A medical cannabis pharmacy shall report in writing to the department no later than

522 10 business days before the date of any change of ownership of the medical cannabis
523 pharmacy.

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

525 (i) concurrent with the report described in Subsection (11)(b), the medical cannabis
526 pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection
527 (2)(c);

528 (ii) within 30 days of the submission of the application, the department shall:

529 (A) conduct an application review; and

530 (B) award a license to the medical cannabis pharmacy for the remainder of the term of
531 the medical cannabis pharmacy's license before the ownership change if the medical cannabis
532 pharmacy meets the minimum standards for licensure and operation of the medical cannabis
533 pharmacy described in this chapter; and

534 (iii) if the department approves the license application, notwithstanding Subsection (3),
535 the medical cannabis pharmacy shall pay a license fee that the department sets in accordance
536 with Section 63J-1-504 in an amount that covers the board's cost of conducting the application
537 review.

538 Section 3. Section 4-41a-1102 is amended to read:

539 **4-41a-1102. Dispensing -- Amount a medical cannabis pharmacy may dispense --**
540 **Reporting -- Form of cannabis or cannabis product.**

541 (1) (a) A medical cannabis pharmacy may not sell a product other than:

542 (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired
543 from another medical cannabis pharmacy or a cannabis processing facility that is licensed
544 under Section 4-41a-201;

545 (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy
546 acquired from another medical cannabis pharmacy or a cannabis processing facility that is
547 licensed under Section 4-41a-201;

548 (iii) a medical cannabis device; or

549 (iv) educational material related to the medical use of cannabis.

550 (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to
551 an individual with:

552 (i) (A) a medical cannabis card; or

553 (B) a Department of Health and Human Services registration described in Subsection
554 26B-4-213(10); and

555 (ii) a corresponding government issued photo identification.

556 (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a
557 cannabis-based drug that the United States Food and Drug Administration has approved.

558 (d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a
559 medical cannabis device or medical cannabis product to an individual described in Subsection
560 26B-4-213(2)(a)(i)(B) or to a minor described in Subsection 26B-4-213(2)(c) unless the
561 individual or minor has the approval of the Compassionate Use Board in accordance with
562 Subsection 26B-1-421(5).

563 (2) A medical cannabis pharmacy:

564 (a) may dispense to a medical cannabis cardholder, in any one 28-day period, up to the
565 legal dosage limit of:

566 (i) unprocessed cannabis that:

567 (A) is in a medicinal dosage form; and

568 (B) carries a label clearly displaying the amount of tetrahydrocannabinol and
569 cannabidiol in the cannabis; and

570 (ii) a cannabis product that is in a medicinal dosage form; and

571 (b) may not dispense:

572 (i) more medical cannabis than described in Subsection (2)(a); or

573 (ii) any medical cannabis to an individual whose recommending medical provider did
574 not recommend directions of use and dosing guidelines, until the individual consults with the
575 pharmacy medical provider in accordance with Subsection 26B-4-231(5) [~~any medical~~
576 ~~cannabis~~].

577 (3) (a) A medical cannabis pharmacy shall:

578 (i) (A) access the state electronic verification system before dispensing cannabis or a
579 cannabis product to a medical cannabis cardholder in order to determine if the cardholder or,
580 where applicable, the associated patient has met the maximum amount of medical cannabis
581 described in Subsection (2); and

582 (B) if the verification in Subsection (3)(a)(i) indicates that the individual has met the
583 maximum amount described in Subsection (2), decline the sale, and notify the recommending

584 medical provider who made the underlying recommendation;

585 (ii) submit a record to the state electronic verification system each time the medical
586 cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

587 (iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews
588 each medical cannabis transaction before dispensing the medical cannabis to the cardholder in
589 accordance with pharmacy practice standards;

590 (iv) package any medical cannabis that is in a container that:

591 (A) complies with Subsection 4-41a-602(1)(b) or, if applicable, provisions related to a
592 container for unprocessed cannabis flower in the definition of "medicinal dosage form" in
593 Section 26B-4-201;

594 (B) is tamper-resistant and tamper-evident; and

595 (C) provides an opaque bag or box for the medical cannabis cardholder's use in
596 transporting the container in public;

597 (v) for a product that is a cube that is designed for ingestion through chewing or
598 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks
599 of over-consumption; and

600 (vi) beginning January 1, 2024, for a cannabis product that is cannabis flower,
601 vaporizer cartridges, or concentrate, provide the product's terpene profiles collected under
602 Subsection 4-41a-602(4) at or before the point of sale.

603 (b) A medical cannabis cardholder transporting or possessing the container described
604 in Subsection (3)(a)(iv) in public shall keep the container within the opaque bag or box that the
605 medical cannabis pharmacist provides.

606 (4) (a) Except as provided in Subsection (4)(b), a medical cannabis pharmacy may not
607 sell medical cannabis in the form of a cigarette or a medical cannabis device that is
608 intentionally designed or constructed to resemble a cigarette.

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

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

614 (b) A medical cannabis pharmacy may give, at no cost, educational material related to

615 the medical use of cannabis.

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

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

620 **4-41a-1202. Home delivery of medical cannabis shipments -- Medical cannabis**
621 **couriers -- License.**

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

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

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

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

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

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

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

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

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

643 (4) If the department determines that an applicant is eligible for a license under this
644 section, the department shall:

645 (a) charge the applicant an initial license fee in an amount that, subject to Subsection

646 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

647 (b) notify the Department of Public Safety of the license approval and the names of
648 each individual described in Subsection (3)(b)(i).

649 (5) The department may not issue a license to operate as a medical cannabis courier to
650 an applicant if an individual described in Subsection (3)(b)(i):

651 (a) has been convicted under state or federal law of:

652 (i) a felony; or

653 (ii) after September 23, 2019, a misdemeanor for drug distribution; or

654 (b) is younger than 21 years old.

655 (6) The department may revoke a license under this part if:

656 (a) the medical cannabis courier does not begin operations within one year after the day
657 on which the department issues the initial license;

658 (b) the medical cannabis courier makes the same violation of this chapter three times;

659 (c) an individual described in Subsection (3)(b)(i) is convicted, while the license is
660 active, under state or federal law of:

661 (i) a felony; or

662 (ii) after September 23, 2019, a misdemeanor for drug distribution; or

663 (d) after a change of ownership described in Subsection (15)(c), the department
664 determines that the medical cannabis courier no longer meets the minimum standards for
665 licensure and operation of the medical cannabis courier described in this chapter.

666 (7) The department shall deposit the proceeds of a fee imposed by this section in the
667 Qualified Production Enterprise Fund.

668 [~~(8) The department shall begin accepting applications under this section on or before~~
669 ~~July 1, 2020.~~]

670 [(~~9~~) (8) The department's authority to issue a license under this section is plenary and
671 is not subject to review.

672 [(~~10~~) (9) Each applicant for a license as a medical cannabis courier shall submit, at the
673 time of application, from each individual who has a financial or voting interest of 10% or
674 greater in the applicant or who has the power to direct or cause the management or control of
675 the applicant:

676 (a) a fingerprint card in a form acceptable to the Department of Public Safety;

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

680 (c) consent to a fingerprint background check by:

681 (i) the Bureau of Criminal Identification; and

682 (ii) the Federal Bureau of Investigation.

683 ~~[(11)]~~ (10) The Bureau of Criminal Identification shall:

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

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

688 (c) maintain a separate file of fingerprints that applicants submit under Subsection
689 ~~[(10)]~~ (9) for search by future submissions to the local and regional criminal records databases,
690 including latent prints;

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

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

698 ~~[(12)]~~ (11) The department shall:

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

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

705 ~~[(13)]~~ (12) The department shall renew a license under this section every year if, at the
706 time of renewal:

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

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

710 ~~[(14)]~~ (13) A person applying for a medical cannabis courier license shall submit to the
711 department a proposed operating plan that complies with this section and that includes:

712 (a) a description of the physical characteristics of any proposed facilities, including a
713 floor plan and an architectural elevation, and delivery vehicles;

714 (b) a description of the credentials and experience of each officer, director, or owner of
715 the proposed medical cannabis courier;

716 (c) the medical cannabis courier's employee training standards;

717 (d) a security plan; and

718 (e) storage and delivery protocols, both short and long term, to ensure that medical
719 cannabis shipments are stored and delivered in a manner that is sanitary and preserves the
720 integrity of the cannabis.

721 ~~[(15)]~~ (14) (a) A medical cannabis courier license is not ~~[transferrable]~~ transferable or
722 assignable.

723 (b) A medical cannabis courier shall report in writing to the department no later than
724 10 business days before the date of any change of ownership of the medical cannabis courier.

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

726 (i) concurrent with the report described in Subsection ~~[(15)(b)]~~ (14)(b), the medical
727 cannabis courier shall submit a new application described in Subsection (3)(b);

728 (ii) within 30 days of the submission of the application, the department shall:

729 (A) conduct an application review; and

730 (B) award a license to the medical cannabis courier for the remainder of the term of the
731 medical cannabis courier's license before the ownership change if the medical cannabis courier
732 meets the minimum standards for licensure and operation of the medical cannabis courier
733 described in this chapter; and

734 (iii) if the department approves the license application, notwithstanding Subsection (4),
735 the medical cannabis courier shall pay a license fee that the department sets in accordance with
736 Section 63J-1-504 in an amount that covers the board's cost of conducting the application
737 review.

738 ~~[(16)]~~ (15) (a) Except as provided in Subsection(16)(b), a person may not advertise

739 regarding the transportation of medical cannabis.

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

743 (i) a green cross;

744 (ii) the pharmacy's or courier's name and logo; and

745 (iii) that the pharmacy or courier is licensed to transport medical cannabis shipments.

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

747 **17-43-203. Definition of "public funds" -- Responsibility for oversight of public**
748 **funds -- Substance abuse programs and services.**

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

750 (a) means:

751 (i) federal money received from the department or the [~~Department of Health~~]

752 Department of Health and Human Services; and

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

757 (b) includes that federal and state money:

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

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

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

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

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

774 (c) knowingly keep any false account or make any false entry or erasure in any account
775 of or relating to the public funds;

776 (d) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating
777 to public funds;

778 (e) fail to ensure competent oversight for lawful disbursement of public funds;

779 (f) appropriate public funds for an unlawful use or for a use that is not in compliance
780 with contract provisions; or

781 (g) knowingly or intentionally use public funds unlawfully or in violation of a
782 governmental contract provision, or in violation of state policy.

783 (3) Each local substance abuse authority that knows or reasonably should know of any
784 of the circumstances described in Subsection (2), and that fails or refuses to take timely
785 corrective action in good faith shall, in addition to any other penalties provided by law, be
786 required to make full and complete repayment to the state of all public funds improperly used
787 or expended.

788 (4) Any public funds required to be repaid to the state by a local substance abuse
789 authority under Subsection (3), based upon the actions or failure of the contract provider, may
790 be recovered by the local substance abuse authority from its contract provider, in addition to
791 the local substance abuse authority's costs and attorney's fees.

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

793 **17-43-301. Local mental health authorities -- Responsibilities.**

794 (1) As used in this section:

795 (a) "Assisted outpatient treatment" means the same as that term is defined in Section
796 [26B-5-301](#).

797 (b) "Crisis worker" means the same as that term is defined in Section [26B-5-610](#).

798 (c) "Local mental health crisis line" means the same as that term is defined in Section
799 [26B-5-610](#).

800 (d) "Mental health therapist" means the same as that term is defined in Section

801 58-60-102.

802 (e) "Public funds" means the same as that term is defined in Section 17-43-303.

803 (f) "Statewide mental health crisis line" means the same as that term is defined in
804 Section 26B-5-610.

805 (2) (a) (i) In each county operating under a county executive-council form of
806 government under Section 17-52a-203, the county legislative body is the local mental health
807 authority, provided however that any contract for plan services shall be administered by the
808 county executive.

809 (ii) In each county operating under a council-manager form of government under
810 Section 17-52a-204, the county manager is the local mental health authority.

811 (iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the
812 county legislative body is the local mental health authority.

813 (b) Within legislative appropriations and county matching funds required by this
814 section, under the direction of the division, each local mental health authority shall:

815 (i) provide mental health services to individuals within the county; and

816 (ii) cooperate with efforts of the division to promote integrated programs that address
817 an individual's substance use, mental health, and physical healthcare needs, as described in
818 Section 26B-5-102.

819 (c) Within legislative appropriations and county matching funds required by this
820 section, each local mental health authority shall cooperate with the efforts of the department to
821 promote a system of care, as defined in Section [~~26B-1-102~~] 26B-5-101, for minors with or at
822 risk for complex emotional and behavioral needs, as described in Section 26B-1-202.

823 (3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal
824 Cooperation Act, two or more counties may join to:

825 (i) provide mental health prevention and treatment services; or

826 (ii) create a united local health department that combines substance use treatment
827 services, mental health services, and local health department services in accordance with
828 Subsection (4).

829 (b) The legislative bodies of counties joining to provide services may establish
830 acceptable ways of apportioning the cost of mental health services.

831 (c) Each agreement for joint mental health services shall:

832 (i) (A) designate the treasurer of one of the participating counties or another person as
833 the treasurer for the combined mental health authorities and as the custodian of money
834 available for the joint services; and

835 (B) provide that the designated treasurer, or other disbursing officer authorized by the
836 treasurer, may make payments from the money available for the joint services upon audit of the
837 appropriate auditing officer or officers representing the participating counties;

838 (ii) provide for the appointment of an independent auditor or a county auditor of one of
839 the participating counties as the designated auditing officer for the combined mental health
840 authorities;

841 (iii) (A) provide for the appointment of the county or district attorney of one of the
842 participating counties as the designated legal officer for the combined mental health
843 authorities; and

844 (B) authorize the designated legal officer to request and receive the assistance of the
845 county or district attorneys of the other participating counties in defending or prosecuting
846 actions within their counties relating to the combined mental health authorities; and

847 (iv) provide for the adoption of management, clinical, financial, procurement,
848 personnel, and administrative policies as already established by one of the participating
849 counties or as approved by the legislative body of each participating county or interlocal board.

850 (d) An agreement for joint mental health services may provide for:

851 (i) joint operation of services and facilities or for operation of services and facilities
852 under contract by one participating local mental health authority for other participating local
853 mental health authorities; and

854 (ii) allocation of appointments of members of the mental health advisory council
855 between or among participating counties.

856 (4) A county governing body may elect to combine the local mental health authority
857 with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities,
858 and the local health department created in Title 26A, Chapter 1, Part 1, Local Health
859 Department Act, to create a united local health department under Section [26A-1-105.5](#). A local
860 mental health authority that joins with a united local health department shall comply with this
861 part.

862 (5) (a) Each local mental health authority is accountable to the department and the state

863 with regard to the use of state and federal funds received from those departments for mental
864 health services, regardless of whether the services are provided by a private contract provider.

865 (b) Each local mental health authority shall comply, and require compliance by its
866 contract provider, with all directives issued by the department regarding the use and
867 expenditure of state and federal funds received from those departments for the purpose of
868 providing mental health programs and services. The department shall ensure that those
869 directives are not duplicative or conflicting, and shall consult and coordinate with local mental
870 health authorities with regard to programs and services.

871 (6) (a) Each local mental health authority shall:

872 (i) review and evaluate mental health needs and services, including mental health needs
873 and services for:

874 (A) an individual incarcerated in a county jail or other county correctional facility; and

875 (B) an individual who is a resident of the county and who is court ordered to receive
876 assisted outpatient treatment under Section [26B-5-351](#);

877 (ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a
878 plan approved by the county legislative body for mental health funding and service delivery,
879 either directly by the local mental health authority or by contract;

880 (iii) establish and maintain, either directly or by contract, programs licensed under Title
881 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

882 (iv) appoint, directly or by contract, a full-time or part-time director for mental health
883 programs and prescribe the director's duties;

884 (v) provide input and comment on new and revised rules established by the division;

885 (vi) establish and require contract providers to establish administrative, clinical,
886 personnel, financial, procurement, and management policies regarding mental health services
887 and facilities, in accordance with the rules of the division, and state and federal law;

888 (vii) establish mechanisms allowing for direct citizen input;

889 (viii) annually contract with the division to provide mental health programs and
890 services in accordance with the provisions of Title 26B, Chapter 5, Health Care - Substance
891 Use and Mental Health;

892 (ix) comply with all applicable state and federal statutes, policies, audit requirements,
893 contract requirements, and any directives resulting from those audits and contract requirements;

894 (x) provide funding equal to at least 20% of the state funds that it receives to fund
895 services described in the plan;

896 (xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
897 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts, and Title
898 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
899 Other Local Entities Act; and

900 (xii) take and retain physical custody of minors committed to the physical custody of
901 local mental health authorities by a judicial proceeding under Title 26B, Chapter 5, Part 4,
902 Commitment of Persons Under Age 18.

903 (b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and
904 children, which shall include:

905 (i) inpatient care and services;

906 (ii) residential care and services;

907 (iii) outpatient care and services;

908 (iv) 24-hour crisis care and services;

909 (v) psychotropic medication management;

910 (vi) psychosocial rehabilitation, including vocational training and skills development;

911 (vii) case management;

912 (viii) community supports, including in-home services, housing, family support
913 services, and respite services;

914 (ix) consultation and education services, including case consultation, collaboration
915 with other county service agencies, public education, and public information; and

916 (x) services to persons incarcerated in a county jail or other county correctional facility.

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

920 (i) collaborate with the statewide mental health crisis line described in Section
921 [26B-5-610](#);

922 (ii) ensure that each individual who answers calls to the local mental health crisis line:

923 (A) is a mental health therapist or a crisis worker; and

924 (B) meets the standards of care and practice established by the Division of Integrated

925 Healthcare, in accordance with Section 26B-5-610; and

926 (iii) ensure that when necessary, based on the local mental health crisis line's capacity,
927 calls are immediately routed to the statewide mental health crisis line to ensure that when an
928 individual calls the local mental health crisis line, regardless of the time, date, or number of
929 individuals trying to simultaneously access the local mental health crisis line, a mental health
930 therapist or a crisis worker answers the call without the caller first:

931 (A) waiting on hold; or

932 (B) being screened by an individual other than a mental health therapist or crisis
933 worker.

934 (b) If a local mental health authority does not provide for a local mental health crisis
935 line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the
936 local mental health authority shall use the statewide mental health crisis line as a local crisis
937 line resource.

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

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

943 (i) the division;

944 (ii) the local mental health authority director;

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

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

948 (iv) the county legislative body; and

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

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

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

955 (9) A local mental health authority may receive property, grants, gifts, supplies,

956 materials, contributions, and any benefit derived therefrom, for mental health services. If those
957 gifts are conditioned upon their use for a specified service or program, they shall be so used.

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

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

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

965 **26A-1-112. Appointment of personnel.**

966 (1) All local health department personnel shall be hired by the local health officer or
967 the local health officer's designee in accordance with the merit system, personnel policies, and
968 compensation plans approved by the board and ratified pursuant to Subsection (2). The
969 personnel shall have qualifications for their positions equivalent to those approved for
970 comparable positions in the Departments of [~~Health~~] Health and Human Services and
971 Environmental Quality.

972 (2) The merit system, personnel policies, and compensation plans approved under
973 Subsection (1) shall be ratified by all the counties participating in the local health department.

974 (3) Subject to the local merit system, employees of the local health department may be
975 removed by the local health officer for cause. A hearing shall be granted if requested by the
976 employee.

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

978 **26A-1-113. Right of entry to regulated premises by representatives for inspection.**

979 (1) Upon presenting proper identification, authorized representatives of local health
980 departments may enter upon the premises of properties regulated by local health departments to
981 perform routine inspections to insure compliance with rules, standards, regulations, and
982 ordinances as adopted by the Departments of [~~Health~~] Health and Human Services and
983 Environmental Quality, local boards of health, county or municipal governing bodies, or
984 administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2,
985 State Construction Code Administration Act.

986 (2) Section 58-56-9 does not apply to health inspectors acting under this section.

987 (3) This section does not authorize local health departments to inspect private
988 dwellings.

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

990 **26A-1-120. County attorney or district attorney to represent and advise**
991 **department, board, officers, and employees.**

992 (1) Except as otherwise provided in this section, the county attorney of the county in
993 which the headquarters of the local health department is located shall serve as legal advisor to
994 the local health department in all civil matters involving the local health department.

995 (2) The county attorney of the county where a civil claim arises shall bring any action
996 requested by a local health department to abate a condition that exists in violation of, or to
997 restrain or enjoin any action which is in violation of the public health laws and rules of the
998 Departments of [~~Health~~] Health and Human Services and Environmental Quality, the
999 standards, regulations, orders, and notices, of a local health department, and other laws,
1000 ordinances, and rules pertaining to health and sanitary matters.

1001 (3) (a) The district attorney or county attorney having criminal jurisdiction shall
1002 prosecute criminal violations of the public health laws and rules of the Departments of [~~Health~~]
1003 Health and Human Services and Environmental Quality, the standards, regulations, orders, and
1004 notices, of a local health department, and other laws and rules pertaining to health and sanitary
1005 matters.

1006 (b) Violations of local ordinances relating to public health matters shall be prosecuted
1007 by the prosecuting attorney of the jurisdiction enacting the ordinance.

1008 (4) The county attorney of a county where an action arises shall, if requested by the
1009 county attorney designated in Subsection (1):

1010 (a) act as legal adviser to the local health department and the board with respect to the
1011 action; and

1012 (b) defend all actions and proceedings brought in that county against the local health
1013 department, the board, or the officers and employees of the local health department.

1014 Section 10. Section **26B-1-202** is amended to read:

1015 **26B-1-202. Department authority and duties.**

1016 The department may, subject to applicable restrictions in state law and in addition to all
1017 other authority and responsibility granted to the department by law:

- 1018 (1) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
1019 Rulemaking Act, and not inconsistent with law, as the department may consider necessary or
1020 desirable for providing health and social services to the people of this state;
- 1021 (2) establish and manage client trust accounts in the department's institutions and
1022 community programs, at the request of the client or the client's legal guardian or representative,
1023 or in accordance with federal law;
- 1024 (3) purchase, as authorized or required by law, services that the department is
1025 responsible to provide for legally eligible persons;
- 1026 (4) conduct adjudicative proceedings for clients and providers in accordance with the
1027 procedures of Title 63G, Chapter 4, Administrative Procedures Act;
- 1028 (5) establish eligibility standards for the department's programs, not inconsistent with
1029 state or federal law or regulations;
- 1030 (6) take necessary steps, including legal action, to recover money or the monetary value
1031 of services provided to a recipient who was not eligible;
- 1032 (7) set and collect fees for the department's services;
- 1033 (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited,
1034 or limited by law;
- 1035 (9) acquire, manage, and dispose of any real or personal property needed or owned by
1036 the department, not inconsistent with state law;
- 1037 (10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or
1038 the proceeds thereof, may be credited to the program designated by the donor, and may be used
1039 for the purposes requested by the donor, as long as the request conforms to state and federal
1040 policy; all donated funds shall be considered private, nonlapsing funds and may be invested
1041 under guidelines established by the state treasurer;
- 1042 (11) accept and employ volunteer labor or services; the department is authorized to
1043 reimburse volunteers for necessary expenses, when the department considers that
1044 reimbursement to be appropriate;
- 1045 (12) carry out the responsibility assigned in the workforce services plan by the State
1046 Workforce Development Board;
- 1047 (13) carry out the responsibility assigned by [~~Section 62A-5a-105~~] Section 26B-1-430
1048 with respect to coordination of services for students with a disability;

- 1049 (14) provide training and educational opportunities for the department's staff;
- 1050 (15) collect child support payments and any other money due to the department;
- 1051 (16) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents
1052 whose child lives out of the home in a department licensed or certified setting;
- 1053 (17) establish policy and procedures, within appropriations authorized by the
1054 Legislature, in cases where the Division of Child and Family Services or the [~~Division of~~
1055 ~~Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services is given custody of a
1056 minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to
1057 prepare an attainment plan for a minor found not competent to proceed under Section
1058 [80-6-403](#), including:
- 1059 (a) designation of interagency teams for each juvenile court district in the state;
- 1060 (b) delineation of assessment criteria and procedures;
- 1061 (c) minimum requirements, and timeframes, for the development and implementation
1062 of a collaborative service plan for each minor placed in department custody; and
- 1063 (d) provisions for submittal of the plan and periodic progress reports to the court;
- 1064 (18) carry out the responsibilities assigned to the department by statute;
- 1065 (19) examine and audit the expenditures of any public funds provided to a local
1066 substance abuse authority, a local mental health authority, a local area agency on aging, and any
1067 person, agency, or organization that contracts with or receives funds from those authorities or
1068 agencies. Those local authorities, area agencies, and any person or entity that contracts with or
1069 receives funds from those authorities or area agencies, shall provide the department with any
1070 information the department considers necessary. The department is further authorized to issue
1071 directives resulting from any examination or audit to a local authority, an area agency, and
1072 persons or entities that contract with or receive funds from those authorities with regard to any
1073 public funds. If the department determines that it is necessary to withhold funds from a local
1074 mental health authority or local substance abuse authority based on failure to comply with state
1075 or federal law, policy, or contract provisions, the department may take steps necessary to
1076 ensure continuity of services. For purposes of this Subsection (19) "public funds" means the
1077 same as that term is defined in Section [~~62A-15-102~~] [26B-5-101](#);
- 1078 (20) in accordance with Subsection [26B-2-104\(1\)\(d\)](#), accredit one or more agencies
1079 and persons to provide intercountry adoption services;

1080 (21) within legislative appropriations, promote and develop a system of care and
1081 stabilization services:

1082 (a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and
1083 (b) that encompasses the department, department contractors, and the divisions,
1084 offices, or institutions within the department, to:

1085 (i) navigate services, funding resources, and relationships to the benefit of the children
1086 and families whom the department serves;

1087 (ii) centralize department operations, including procurement and contracting;

1088 (iii) develop policies that govern business operations and that facilitate a system of care
1089 approach to service delivery;

1090 (iv) allocate resources that may be used for the children and families served by the
1091 department or the divisions, offices, or institutions within the department, subject to the
1092 restrictions in Section [63J-1-206](#);

1093 (v) create performance-based measures for the provision of services; and
1094 (vi) centralize other business operations, including data matching and sharing among
1095 the department's divisions, offices, and institutions;

1096 (22) ensure that any training or certification required of a public official or public
1097 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter
1098 22, State Training and Certification Requirements, if the training or certification is required:

1099 (a) under this title;
1100 (b) by the department; or
1101 (c) by an agency or division within the department;

1102 (23) enter into cooperative agreements with the Department of Environmental Quality
1103 to delineate specific responsibilities to assure that assessment and management of risk to
1104 human health from the environment are properly administered;

1105 (24) consult with the Department of Environmental Quality and enter into cooperative
1106 agreements, as needed, to ensure efficient use of resources and effective response to potential
1107 health and safety threats from the environment, and to prevent gaps in protection from potential
1108 risks from the environment to specific individuals or population groups;

1109 (25) to the extent authorized under state law or required by federal law, promote and
1110 protect the health and wellness of the people within the state;

1111 (26) establish, maintain, and enforce rules authorized under state law or required by
1112 federal law to promote and protect the public health or to prevent disease and illness;

1113 (27) investigate the causes of epidemic, infectious, communicable, and other diseases
1114 affecting the public health;

1115 (28) provide for the detection and reporting of communicable, infectious, acute,
1116 chronic, or any other disease or health hazard which the department considers to be dangerous,
1117 important, or likely to affect the public health;

1118 (29) collect and report information on causes of injury, sickness, death, and disability
1119 and the risk factors that contribute to the causes of injury, sickness, death, and disability within
1120 the state;

1121 (30) collect, prepare, publish, and disseminate information to inform the public
1122 concerning the health and wellness of the population, specific hazards, and risks that may affect
1123 the health and wellness of the population and specific activities which may promote and protect
1124 the health and wellness of the population;

1125 (31) abate nuisances when necessary to eliminate sources of filth and infectious and
1126 communicable diseases affecting the public health;

1127 (32) make necessary sanitary and health investigations and inspections in cooperation
1128 with local health departments as to any matters affecting the public health;

1129 (33) establish laboratory services necessary to support public health programs and
1130 medical services in the state;

1131 (34) establish and enforce standards for laboratory services which are provided by any
1132 laboratory in the state when the purpose of the services is to protect the public health;

1133 (35) cooperate with the Labor Commission to conduct studies of occupational health
1134 hazards and occupational diseases arising in and out of employment in industry, and make
1135 recommendations for elimination or reduction of the hazards;

1136 (36) cooperate with the local health departments, the Department of Corrections, the
1137 Administrative Office of the Courts, the ~~[Division of Juvenile Justice Services]~~ Division of
1138 Juvenile Justice and Youth Services, and the Crime Victim Reparations and Assistance Board
1139 to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders,
1140 and any victims of a sexual offense;

1141 (37) investigate the causes of maternal and infant mortality;

1142 (38) establish, maintain, and enforce a procedure requiring the blood of adult
1143 pedestrians and drivers of motor vehicles killed in highway accidents be examined for the
1144 presence and concentration of alcohol, and provide the Commissioner of Public Safety with
1145 monthly statistics reflecting the results of these examinations, with necessary safeguards so that
1146 information derived from the examinations is not used for a purpose other than the compilation
1147 of these statistics;

1148 (39) establish qualifications for individuals permitted to draw blood under Subsection
1149 [41-6a-523\(1\)\(a\)\(vi\)](#), [53-10-405\(2\)\(a\)\(vi\)](#), [72-10-502\(5\)\(a\)\(vi\)](#), or [77-23-213\(3\)\(a\)\(vi\)](#), and to
1150 issue permits to individuals the department finds qualified, which permits may be terminated or
1151 revoked by the department;

1152 (40) establish a uniform public health program throughout the state which includes
1153 continuous service, employment of qualified employees, and a basic program of disease
1154 control, vital and health statistics, sanitation, public health nursing, and other preventive health
1155 programs necessary or desirable for the protection of public health;

1156 (41) conduct health planning for the state;

1157 (42) monitor the costs of health care in the state and foster price competition in the
1158 health care delivery system;

1159 (43) establish methods or measures for health care providers, public health entities, and
1160 health care insurers to coordinate among themselves to verify the identity of the individuals the
1161 providers serve;

1162 (44) designate Alzheimer's disease and related dementia as a public health issue and,
1163 within budgetary limitations, implement a state plan for Alzheimer's disease and related
1164 dementia by incorporating the plan into the department's strategic planning and budgetary
1165 process;

1166 (45) coordinate with other state agencies and other organizations to implement the state
1167 plan for Alzheimer's disease and related dementia;

1168 (46) ensure that any training or certification required of a public official or public
1169 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter
1170 22, State Training and Certification Requirements, if the training or certification is required by
1171 the agency or under this [~~title, Title 26, Utah Health Code, or Title 62A, Utah Human Services
1172 Code~~] Title 26B, Utah Health and Human Services Code;

1173 (47) oversee public education vision screening as described in Section 53G-9-404; and
 1174 (48) issue code blue alerts in accordance with Title 35A, Chapter 16, Part 7, Code Blue
 1175 Alert.

1176 Section 11. Section **26B-1-204 (Superseded 07/01/24)** is amended to read:

1177 **26B-1-204 (Superseded 07/01/24). Creation of boards, divisions, and offices --**
 1178 **Power to organize department.**

1179 (1) The executive director shall make rules in accordance with Title 63G, Chapter 3,
 1180 Utah Administrative Rulemaking Act, and not inconsistent with law for:

- 1181 (a) the administration and government of the department;
- 1182 (b) the conduct of the department's employees; and
- 1183 (c) the custody, use, and preservation of the records, papers, books, documents, and
 1184 property of the department.

1185 (2) The following policymaking boards, councils, and committees are created within
 1186 the Department of Health and Human Services:

- 1187 (a) Board of Aging and Adult Services;
- 1188 (b) Utah State Developmental Center Board;
- 1189 (c) Health Facility Committee;
- 1190 (d) State Emergency Medical Services Committee;
- 1191 (e) Air Ambulance Committee;
- 1192 (f) Health Data Committee;
- 1193 (g) Utah Health Care Workforce Financial Assistance Program Advisory Committee;
- 1194 (h) Child Care Provider Licensing Committee;
- 1195 (i) Primary Care Grant Committee;
- 1196 (j) Adult Autism Treatment Program Advisory Committee;
- 1197 (k) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and
- 1198 (l) any boards, councils, or committees that are created by statute in this title.

1199 (3) The following divisions are created within the Department of Health and Human
 1200 Services:

- 1201 (a) relating to operations:
 - 1202 (i) the Division of Finance and Administration;
 - 1203 (ii) the Division of Licensing and Background Checks;

- 1204 (iii) the Division of Customer Experience;
- 1205 (iv) the Division of Data, Systems, and Evaluation; and
- 1206 (v) the Division of Continuous Quality and Improvement;
- 1207 (b) relating to healthcare administration:
- 1208 (i) the Division of Integrated Healthcare, which shall include responsibility for:
- 1209 (A) the state's medical assistance programs; and
- 1210 (B) behavioral health programs described in Chapter 5, Health Care - Substance Use
- 1211 and Mental Health;
- 1212 (ii) the Division of Aging and Adult Services; and
- 1213 (iii) the Division of Services for People with Disabilities; [~~and~~]
- 1214 (c) relating to community health and well-being:
- 1215 (i) the Division of Child and Family Services;
- 1216 (ii) the Division of Family Health;
- 1217 (iii) the Division of Population Health;
- 1218 (iv) the Division of Juvenile Justice and Youth Services; and
- 1219 (v) the Office of Recovery Services[-]; and
- 1220 (d) relating to clinical services, the Division of Health Access.
- 1221 (4) The executive director may establish offices [~~and bureaus~~] to facilitate management
- 1222 of the department as required by, and in accordance with this title.
- 1223 (5) From July 1, 2022, through June 30, 2023, the executive director may adjust the
- 1224 organizational structure relating to the department, including the organization of the
- 1225 department's divisions and offices, notwithstanding the organizational structure described in
- 1226 this title.
- 1227 Section 12. Section **26B-1-204 (Effective 07/01/24)** is amended to read:
- 1228 **26B-1-204 (Effective 07/01/24). Creation of boards, divisions, and offices -- Power**
- 1229 **to organize department.**
- 1230 (1) The executive director shall make rules in accordance with Title 63G, Chapter 3,
- 1231 Utah Administrative Rulemaking Act, and not inconsistent with law for:
- 1232 (a) the administration and government of the department;
- 1233 (b) the conduct of the department's employees; and
- 1234 (c) the custody, use, and preservation of the records, papers, books, documents, and

1235 property of the department.

1236 (2) The following policymaking boards, councils, and committees are created within
1237 the Department of Health and Human Services:

1238 (a) Board of Aging and Adult Services;

1239 (b) Utah State Developmental Center Board;

1240 (c) Health Facility Committee;

1241 (d) Health Data Committee;

1242 (e) Utah Health Care Workforce Financial Assistance Program Advisory Committee;

1243 (f) Child Care Provider Licensing Committee;

1244 (g) Primary Care Grant Committee;

1245 (h) Adult Autism Treatment Program Advisory Committee;

1246 (i) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and

1247 (j) any boards, councils, or committees that are created by statute in this title.

1248 (3) The following divisions are created within the Department of Health and Human
1249 Services:

1250 (a) relating to operations:

1251 (i) the Division of Finance and Administration;

1252 (ii) the Division of Licensing and Background Checks;

1253 (iii) the Division of Customer Experience;

1254 (iv) the Division of Data, Systems, and Evaluation; and

1255 (v) the Division of Continuous Quality and Improvement;

1256 (b) relating to healthcare administration:

1257 (i) the Division of Integrated Healthcare, which shall include responsibility for:

1258 (A) the state's medical assistance programs; and

1259 (B) behavioral health programs described in Chapter 5, Health Care - Substance Use
1260 and Mental Health;

1261 (ii) the Division of Aging and Adult Services; and

1262 (iii) the Division of Services for People with Disabilities; [~~and~~]

1263 (c) relating to community health and well-being:

1264 (i) the Division of Child and Family Services;

1265 (ii) the Division of Family Health;

- 1266 (iii) the Division of Population Health;
- 1267 (iv) the Division of Juvenile Justice and Youth Services; and
- 1268 (v) the Office of Recovery Services[-]; and
- 1269 (d) relating to clinical services, the Division of Health Access.

1270 (4) The executive director may establish offices [~~and bureaus~~] to facilitate management
1271 of the department as required by, and in accordance with this title.

1272 (5) From July 1, 2022, through June 30, 2023, the executive director may adjust the
1273 organizational structure relating to the department, including the organization of the
1274 department's divisions and offices, notwithstanding the organizational structure described in
1275 this title.

1276 Section 13. Section **26B-1-207** is amended to read:

1277 **26B-1-207. Policymaking responsibilities -- Regulations for local health**
1278 **departments prescribed by department -- Local standards not more stringent than**
1279 **federal or state standards -- Consultation with local health departments -- Committee to**
1280 **evaluate health policies and to review federal grants.**

1281 (1) In establishing public health policy, the department shall consult with the local
1282 health departments established under Title 26A, Chapter 1, Local Health Departments.

1283 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1284 the department may prescribe by administrative rule made in accordance with Title 63G,
1285 Chapter 3, Utah Administrative Rulemaking Act, reasonable requirements not inconsistent
1286 with law for a local health department as defined in Section [26A-1-102](#).

1287 (b) Except where specifically allowed by federal law or state statute, a local health
1288 department, as defined in Section [26A-1-102](#), may not establish standards or regulations that
1289 are more stringent than those established by federal law, state statute, or administrative rule
1290 adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1291 (c) Nothing in this Subsection (2), limits the ability of a local health department to
1292 make standards and regulations in accordance with Subsection [26A-1-121\(1\)\(a\)](#) for:

- 1293 (i) emergency rules made in accordance with Section [63G-3-304](#); or
- 1294 (ii) items not regulated under federal law, state statute, or state administrative rule.

1295 (3) (a) As used in this Subsection (3):

- 1296 (i) "Committee" means the committee established under Subsection (3)(b).

- 1297 (ii) "Exempt application" means an application for a federal grant that meets the
1298 criteria established under Subsection [~~(3)(c)(iii)~~] (3)(c)(iv).
- 1299 (iii) "Expedited application" means an application for a federal grant that meets the
1300 criteria established under Subsection [~~(3)(c)(iv)~~] (3)(c)(v).
- 1301 (iv) "Federal grant" means a grant from the federal government that could provide
1302 funds for local health departments to help them fulfill their duties and responsibilities.
- 1303 (v) "Reviewable application" means an application for a federal grant that is not an
1304 exempt application.
- 1305 (b) The department shall establish a committee consisting of:
- 1306 (i) the executive director, or the executive director's designee;
- 1307 (ii) two representatives of the department, appointed by the executive director; and
- 1308 (iii) three representatives of local health departments, appointed by all local health
1309 departments.
- 1310 (c) The committee shall:
- 1311 (i) evaluate the allocation of public health resources between the department and local
1312 health departments, including whether funds allocated by contract were allocated in accordance
1313 with the formula described in Section [26A-1-116](#);
- 1314 (ii) evaluate policies and rules that affect local health departments in accordance with
1315 Subsection (3)(g);
- 1316 (iii) consider department policy and rule changes proposed by the department or local
1317 health departments;
- 1318 (iv) establish criteria by which an application for a federal grant may be judged to
1319 determine whether it should be exempt from the requirements under Subsection (3)(d); and
- 1320 (v) establish criteria by which an application for a federal grant may be judged to
1321 determine whether committee review under Subsection (3)(d)(i) should be delayed until after
1322 the application is submitted because the application is required to be submitted under a
1323 timetable that makes committee review before it is submitted impracticable if the submission
1324 deadline is to be met.
- 1325 (d) (i) The committee shall review the goals and budget for each reviewable
1326 application:
- 1327 (A) before the application is submitted, except for an expedited application; and

1328 (B) for an expedited application, after the application is submitted but before funds
1329 from the federal grant for which the application was submitted are disbursed or encumbered.

1330 (ii) Funds from a federal grant under a reviewable application may not be disbursed or
1331 encumbered before the goals and budget for the federal grant are established by~~[(A)]~~ a
1332 two-thirds vote of the committee, following the committee review under Subsection (3)(d)(i);
1333 ~~or].~~

1334 ~~[(B) if two-thirds of the committee cannot agree on the goals and budget, the chair of
1335 the health advisory council, after consultation with the committee in a manner that the
1336 committee determines.]~~

1337 (e) An exempt application is exempt from the requirements of Subsection (3)(d).

1338 (f) The department may use money from a federal grant to pay administrative costs
1339 incurred in implementing this Subsection (3).

1340 (g) When evaluating a policy or rule that affects a local health department, the
1341 committee shall determine:

1342 (i) whether the department has the authority to promulgate the policy or rule;

1343 (ii) an estimate of the cost a local health department will bear to comply with the policy
1344 or rule;

1345 (iii) whether there is any funding provided to a local health department to implement
1346 the policy or rule; and

1347 (iv) whether the policy or rule is still needed.

1348 (h) Before November 1 of each year, the department shall provide a report to the
1349 Administrative Rules Review and General Oversight Committee regarding the determinations
1350 made under Subsection (3)(g).

1351 Section 14. Section **26B-1-237** is amended to read:

1352 **26B-1-237. Office of Internal Audit.**

1353 The ~~[Utah]~~ Office of Internal Audit:

1354 (1) may not be placed within ~~[the]~~ a division;

1355 (2) shall be placed directly under, and report directly to, the executive director of the
1356 Department of Health and Human Services; and

1357 (3) shall have full access to all records of the ~~[division]~~ department.

1358 Section 15. Section **26B-1-324** is amended to read:

1359 **26B-1-324. Statewide Behavioral Health Crisis Response Account -- Creation --**
1360 **Administration -- Permitted uses -- Reporting.**

1361 (1) There is created a restricted account within the General Fund known as the
1362 "Statewide Behavioral Health Crisis Response Account," consisting of:

1363 (a) money appropriated or otherwise made available by the Legislature; and

1364 (b) contributions of money, property, or equipment from federal agencies, political
1365 subdivisions of the state, or other persons.

1366 (2) (a) Subject to appropriations by the Legislature and any contributions to the account
1367 described in Subsection (1)(b), the division shall disburse funds in the account only for the
1368 purpose of support or implementation of services or enhancements of those services in order to
1369 rapidly, efficiently, and effectively deliver 988 services in the state.

1370 (b) Funds distributed from the account to county local mental health and substance
1371 abuse authorities for the provision of crisis services are not subject to the 20% county match
1372 described in Sections [17-43-201](#) and [17-43-301](#).

1373 (c) After consultation with the Behavioral Health Crisis Response Commission created
1374 in Section [63C-18-202](#), and local substance use authorities and local mental health authorities
1375 described in Sections [17-43-201](#) and [17-43-301](#), the division shall expend funds from the
1376 account on any of the following programs:

1377 (i) the Statewide Mental Health Crisis Line, as defined in Section [26B-5-610](#), including
1378 coordination with 911 emergency service, as defined in Section [69-2-102](#), and coordination
1379 with local substance abuse authorities as described in Section [17-43-201](#), and local mental
1380 health authorities, described in Section [17-43-301](#);

1381 (ii) mobile crisis outreach teams as defined in Section [26B-5-609](#), distributed in
1382 accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah
1383 Administrative Rulemaking Act;

1384 (iii) behavioral health receiving centers as defined in Section [26B-5-114](#);

1385 (iv) stabilization services as described in Section [~~26B-1-102~~] [26B-5-101](#);

1386 (v) mental health crisis services, as defined in Section [26B-5-101](#), provided by local
1387 substance abuse authorities as described in Section [17-43-201](#) and local mental health
1388 authorities described in Section [17-43-301](#) to provide prolonged mental health services for up
1389 to 90 days after the day on which an individual experiences a mental health crisis as defined in

1390 Section 26B-5-101;

1391 (vi) crisis intervention training for first responders, as that term is defined in Section
1392 78B-4-501;

1393 (vii) crisis worker certification training for first responders, as that term is defined in
1394 Section 78B-4-501;

1395 (viii) frontline support for the SafeUT Crisis Line; or

1396 (ix) suicide prevention gatekeeper training for first responders, as that term is defined
1397 in Section 78B-4-501.

1398 (d) If the Legislature appropriates money to the account for a purpose described in
1399 Subsection (2)(c), the division shall use the appropriation for that purpose.

1400 (3) Subject to appropriations by the Legislature and any contributions to the account
1401 described in Subsection (1)(b), the division may expend funds in the account for administrative
1402 costs that the division incurs related to administering the account.

1403 (4) The division director shall submit and make available to the public a report before
1404 December of each year to the Behavioral Health Crisis Response Commission, as defined in
1405 Section 63C-18-202, the Social Services Appropriations Subcommittee, and the Legislative
1406 Management Committee that includes:

1407 (a) the amount of each disbursement from the account;

1408 (b) the recipient of each disbursement, the goods and services received, and a
1409 description of the project funded by the disbursement;

1410 (c) any conditions placed by the division on the disbursements from the account;

1411 (d) the anticipated expenditures from the account for the next fiscal year;

1412 (e) the amount of any unexpended funds carried forward;

1413 (f) the number of Statewide Mental Health Crisis Line calls received;

1414 (g) the progress towards accomplishing the goals of providing statewide mental health
1415 crisis service; and

1416 (h) other relevant justification for ongoing support from the account.

1417 (5) Notwithstanding Subsection (2)(c), allocations made to local substance use
1418 authorities and local mental health authorities for behavioral health receiving centers or mobile
1419 crisis outreach teams before the end of fiscal year 2023 shall be maintained through fiscal year
1420 2027, subject to appropriation.

1421 (6) (a) As used in this Subsection (6):

1422 (i) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

1423 (ii) "Mental health service provider" means a behavioral health receiving center or
1424 mobile crisis outreach team.

1425 (b) The department shall coordinate with each mental health service provider that
1426 receives state funds to determine which health benefit plans, if any, have not contracted or have
1427 refused to contract with the mental health service provider at usual and customary rates for the
1428 services provided by the mental health service provider.

1429 (c) In each year that the department identifies a health benefit plan that meets the
1430 description in Subsection (6)(b), the department shall provide a report on the information
1431 gathered under Subsection (6)(b) to the Health and Human Services Interim Committee at or
1432 before the committee's October meeting.

1433 Section 16. Section **26B-1-414** is amended to read:

1434 **26B-1-414. Child Care Provider Licensing Committee -- Duties.**

1435 (1) (a) The Child Care [~~Center~~] Provider Licensing Committee shall be comprised of
1436 12 members appointed by the governor with the advice and consent of the Senate in accordance
1437 with this Subsection (1).

1438 (b) The governor shall appoint three members who:

1439 (i) have at least five years of experience as an owner in or director of a for profit or
1440 not-for-profit center based child care as defined in Section 26B-2-401; and

1441 (ii) hold an active license as a child care center from the department to provide center
1442 based child care as defined in Section 26B-2-401.

1443 (c) The governor shall appoint two members who hold an active license as a residential
1444 child care provider and one member who is a certified residential child care provider.

1445 (d) (i) The governor shall appoint one member to represent each of the following:

1446 (A) a parent with a child in a licensed center based child care facility;

1447 (B) a parent with a child in a residential based child care facility;

1448 (C) a child development expert from the state system of higher education;

1449 (D) except as provided in Subsection (1)(f), a pediatrician licensed in the state;

1450 (E) a health care provider; and

1451 (F) an architect licensed in the state.

1452 (ii) Except as provided in Subsection (1)(d)(i)(C), a member appointed under
1453 Subsection (1)(d)(i) may not be an employee of the state or a political subdivision of the state.

1454 (e) At least one member described in Subsection (1)(b) shall at the time of appointment
1455 reside in a county that is not a county of the first class.

1456 (f) For the appointment described in Subsection (1)(d)(i)(D), the governor may appoint
1457 a health care professional who specializes in pediatric health if:

1458 (i) the health care professional is licensed under:

1459 (A) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice nurse
1460 practitioner; or

1461 (B) Title 58, Chapter 70a, Utah Physician Assistant Act; and

1462 (ii) before appointing a health care professional under this Subsection (1)(f), the
1463 governor:

1464 (A) sends a notice to a professional physician organization in the state regarding the
1465 opening for the appointment described in Subsection (1)(d)(i)(D); and

1466 (B) receives no applications from a pediatrician who is licensed in the state for the
1467 appointment described in Subsection (1)(d)(i)(D) within 90 days after the day on which the
1468 governor sends the notice described in Subsection (1)(f)(ii)(A).

1469 (2) (a) Except as required by Subsection (2)(b), as terms of current members expire, the
1470 governor shall appoint each new member or reappointed member to a four-year term ending
1471 June 30.

1472 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the
1473 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1474 members are staggered so that approximately half of the licensing committee is appointed
1475 every two years.

1476 (c) Upon the expiration of the term of a member of the licensing committee, the
1477 member shall continue to hold office until a successor is appointed and qualified.

1478 (d) A member may not serve more than two consecutive terms.

1479 (e) Members of the licensing committee shall annually select one member to serve as
1480 chair who shall establish the agenda for licensing committee meetings.

1481 (3) When a vacancy occurs in the membership for any reason, the governor, with the
1482 advice and consent of the Senate, shall appoint a replacement for the unexpired term.

- 1483 (4) (a) The licensing committee shall meet at least every two months.
- 1484 (b) The director may call additional meetings:
- 1485 (i) at the director's discretion;
- 1486 (ii) upon the request of the chair; or
- 1487 (iii) upon the written request of three or more members.
- 1488 (5) Seven members of the licensing committee constitute a quorum for the transaction
- 1489 of business.
- 1490 (6) A member appointed under Subsection (1)(b) may not vote on any action proposed
- 1491 by the licensing committee regarding residential child care.
- 1492 (7) A member appointed under Subsection (1)(c) may not vote on any action proposed
- 1493 by the licensing committee regarding center based child care.
- 1494 (8) A member of the licensing committee may not receive compensation or benefits for
- 1495 the member's service, but may receive per diem and travel expenses as allowed in:
- 1496 (a) Section [63A-3-106](#);
- 1497 (b) Section [63A-3-107](#); and
- 1498 (c) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and
- 1499 [63A-3-107](#).
- 1500 (9) The licensing committee shall:
- 1501 (a) in concurrence with the department and in accordance with Title 63G, Chapter 3,
- 1502 Utah Administrative Rulemaking Act, make rules that govern center based child care and
- 1503 residential child care, as those terms are defined in Section [26B-2-401](#), as necessary to protect
- 1504 qualifying children's common needs for a safe and healthy environment, to provide for:
- 1505 (i) adequate facilities and equipment; and
- 1506 (ii) competent caregivers considering the age of the children and the type of program
- 1507 offered by the licensee
- 1508 (b) in concurrence with the department and in accordance with Title 63G, Chapter 3,
- 1509 Utah Administrative Rulemaking Act, make rules necessary to carry out the purposes of
- 1510 Chapter 2, Part 4, Child Care Licensing, that govern center based child care and residential
- 1511 child care, as those terms are defined in Section [26B-2-401](#), in the following areas:
- 1512 (i) requirements for applications, the application process, and compliance with other
- 1513 applicable statutes and rules;

1514 (ii) documentation, policies, and procedures that providers shall have in place in order
1515 to be licensed, in accordance with this Subsection (9);

1516 (iii) categories, classifications, and duration of initial and ongoing licenses;

1517 (iv) changes of ownership or name, changes in licensure status, and changes in
1518 operational status;

1519 (v) license expiration and renewal, contents, and posting requirements;

1520 (vi) procedures for inspections, complaint resolution, disciplinary actions, and other
1521 procedural measures to encourage and ensure compliance with statute and rule; and

1522 (vii) guidelines necessary to ensure consistency and appropriateness in the regulation
1523 and discipline of licensees;

1524 (c) advise the department on the administration of a matter affecting center based child
1525 care or residential child care, as those terms are defined in Section 26B-2-401;

1526 (d) advise and assist the department in conducting center based child care provider
1527 seminars and residential child care seminars; and

1528 (e) perform other duties as provided in Section 26B-2-402.

1529 (10) (a) The licensing committee may not enforce the rules adopted under this section.

1530 (b) the department shall enforce the rules adopted under this section in accordance with
1531 Section 26B-2-402.

1532 Section 17. Section 26B-1-421 is amended to read:

1533 **26B-1-421. Compassionate Use Board.**

1534 (1) The definitions in Section 26B-4-201 apply to this section.

1535 (2) (a) The department shall establish a Compassionate Use Board consisting of:

1536 (i) seven qualified medical providers that the executive director appoints and the
1537 Senate confirms:

1538 (A) who are knowledgeable about the medicinal use of cannabis;

1539 (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act,
1540 or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

1541 (C) who are board certified by the American Board of Medical Specialties or an
1542 American Osteopathic Association Specialty Certifying Board in the specialty of neurology,
1543 pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal
1544 medicine, pediatrics, family medicine, or gastroenterology; and

1545 (ii) as a nonvoting member and the chair of the Compassionate Use Board, the
1546 executive director or the director's designee.

1547 (b) In appointing the seven qualified medical providers described in Subsection (2)(a),
1548 the executive director shall ensure that at least two have a board certification in pediatrics.

1549 (3) (a) Of the members of the Compassionate Use Board that the executive director
1550 first appoints:

1551 (i) three shall serve an initial term of two years; and
1552 (ii) the remaining members shall serve an initial term of four years.

1553 (b) After an initial term described in Subsection (3)(a) expires:
1554 (i) each term is four years; and
1555 (ii) each board member is eligible for reappointment.

1556 (c) A member of the Compassionate Use Board may serve until a successor is
1557 appointed.

1558 (d) Four members constitute a quorum of the Compassionate Use Board.

1559 (4) A member of the Compassionate Use Board may receive:

1560 (a) notwithstanding Section 63A-3-106, compensation or benefits for the member's
1561 service; and
1562 (b) travel expenses in accordance with Section 63A-3-107 and rules made by the
1563 Division of Finance in accordance with Section 63A-3-107.

1564 (5) The Compassionate Use Board shall:

1565 (a) review and recommend for department approval a petition to the board regarding an
1566 individual described in Subsection 26B-4-213(2)(a), a minor described in Subsection
1567 26B-4-213(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis
1568 card to obtain a medical cannabis card for compassionate use, for the standard or a reduced
1569 period of validity, if:

1570 (i) for an individual who is not otherwise qualified to receive a medical cannabis card,
1571 the individual's qualified medical provider is actively treating the individual for an intractable
1572 condition that:

1573 (A) substantially impairs the individual's quality of life; and
1574 (B) has not, in the qualified medical provider's professional opinion, adequately
1575 responded to conventional treatments;

1576 (ii) the qualified medical provider:
1577 (A) recommends that the individual or minor be allowed to use medical cannabis; and
1578 (B) provides a letter, relevant treatment history, and notes or copies of progress notes
1579 describing relevant treatment history including rationale for considering the use of medical
1580 cannabis; and
1581 (iii) the Compassionate Use Board determines that:
1582 (A) the recommendation of the individual's qualified medical provider is justified; and
1583 (B) based on available information, it may be in the best interests of the individual to
1584 allow the use of medical cannabis;
1585 (b) when a qualified medical provider recommends that an individual described in
1586 Subsection 26B-4-213(2)(a)(i)(B) or a minor described in Subsection 26B-4-213(2)(c) be
1587 allowed to use a medical cannabis device or medical cannabis product to vaporize a medical
1588 cannabis treatment, review and approve or deny the use of the medical cannabis device or
1589 medical cannabis product;
1590 (c) unless no petitions are pending:
1591 (i) meet to receive or review compassionate use petitions at least quarterly; and
1592 (ii) if there are more petitions than the board can receive or review during the board's
1593 regular schedule, as often as necessary;
1594 (d) except as provided in Subsection (6), complete a review of each petition and
1595 recommend to the department approval or denial of the applicant for qualification for a medical
1596 cannabis card within 90 days after the day on which the board received the petition;
1597 (e) consult with the department regarding the criteria described in Subsection (6); and
1598 (f) report, before November 1 of each year, to the Health and Human Services Interim
1599 Committee:
1600 (i) the number of compassionate use recommendations the board issued during the past
1601 year; and
1602 (ii) the types of conditions for which the board recommended compassionate use.
1603 (6) The department shall make rules, in consultation with the Compassionate Use
1604 Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
1605 establish a process and criteria for a petition to the board to automatically qualify for expedited
1606 final review and approval or denial by the department in cases where, in the determination of

1607 the department and the board:

1608 (a) time is of the essence;

1609 (b) engaging the full review process would be unreasonable in light of the petitioner's
1610 physical condition; and

1611 (c) sufficient factors are present regarding the petitioner's safety.

1612 (7) (a) (i) The department shall review:

1613 (A) any compassionate use for which the Compassionate Use Board recommends
1614 approval under Subsection (5)(d) to determine whether the board properly exercised the board's
1615 discretion under this section; and

1616 (B) any expedited petitions the department receives under the process described in
1617 Subsection (6).

1618 (ii) If the department determines that the Compassionate Use Board properly exercised
1619 the board's discretion in recommending approval under Subsection (5)(d) or that the expedited
1620 petition merits approval based on the criteria established in accordance with Subsection (6), the
1621 department shall:

1622 (A) issue the relevant medical cannabis card; and

1623 (B) provide for the renewal of the medical cannabis card in accordance with the
1624 recommendation of the qualified medical provider described in Subsection (5)(a).

1625 (b) [(†)] If the Compassionate Use Board recommends denial under Subsection (5)(d),
1626 the individual seeking to obtain a medical cannabis card may petition the department to review
1627 the board's decision.

1628 [~~(ii) If the department determines that the Compassionate Use Board's recommendation
1629 for denial under Subsection (5)(d) was arbitrary or capricious.]~~

1630 [~~(A) the department shall notify the Compassionate Use Board of the department's
1631 determination; and~~]

1632 [~~(B) the board shall reconsider the Compassionate Use Board's refusal to recommend
1633 approval under this section.]~~

1634 (c) In reviewing the Compassionate Use Board's recommendation for approval or
1635 denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall
1636 presume the board properly exercised the board's discretion unless the department determines
1637 that the board's recommendation was arbitrary or capricious.

1638 (8) Any individually identifiable health information contained in a petition that the
1639 Compassionate Use Board or department receives under this section is a protected record in
1640 accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

1641 (9) The Compassionate Use Board shall annually report the board's activity to the
1642 Cannabis Research Review Board and the advisory board.

1643 Section 18. Section **26B-1-422.1** is amended to read:

1644 **26B-1-422.1. Reports.**

1645 (1) (a) On or before August 1 of each year, the [~~council~~] Early Childhood Utah
1646 Advisory Council created in Section 26B-1-422 shall provide an annual report to the executive
1647 director, the executive director of the Department of Workforce Services, and the state
1648 superintendent.

1649 (b) The annual report shall include:

1650 (i) a statewide assessment concerning the availability of high-quality pre-kindergarten
1651 services for children from low-income households;

1652 (ii) a statewide strategic report addressing the activities mandated by the Improving
1653 Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b, including:

1654 (A) identifying opportunities for and barriers to collaboration and coordination among
1655 federally-funded and state-funded child health and development, child care, and early
1656 childhood education programs and services, including collaboration and coordination among
1657 state agencies responsible for administering such programs;

1658 (B) evaluating the overall participation of children in existing federal, state, and local
1659 child care programs and early childhood health, development, family support, and education
1660 programs;

1661 (C) recommending statewide professional development and career advancement plans
1662 for early childhood educators and service providers in the state, including an analysis of the
1663 capacity and effectiveness of programs at two- and four-year public and private institutions of
1664 higher education that support the development of early childhood educators; and

1665 (D) recommending improvements to the state's early learning standards and
1666 high-quality comprehensive early learning standards; and

1667 (iii) the recommendations described in Subsection 26B-1-422(4)(e).

1668 (2) In addition to the annual report described in Subsection (1)(a), on or before August

1669 1, 2024, and at least every five years thereafter, the council shall provide to the executive
1670 director, the executive director of the Department of Workforce Services, and the state
1671 superintendent, a statewide needs assessment concerning the quality and availability of early
1672 childhood education, health, and development programs and services for children in early
1673 childhood.

1674 Section 19. Section **26B-1-435** is amended to read:

1675 **26B-1-435. Medical Cannabis Policy Advisory Board creation - Membership.**

1676 (1) There is created within the department the Medical Cannabis Policy Advisory
1677 Board.

1678 (2) (a) The advisory board shall consist of the following members:

1679 (i) appointed by the executive director:

1680 (A) a qualified medical provider who has at least 100 patients who have a medical
1681 cannabis patient card at the time of appointment;

1682 (B) a medical research professional;

1683 (C) a mental health specialist;

1684 (D) an individual who represents an organization that advocates for medical cannabis
1685 patients;

1686 (E) an individual who holds a medical cannabis patient card; and

1687 (F) a member of the general public who does not hold a medical cannabis card; and

1688 (ii) appointed by the commissioner of the Department of Agriculture and Food:

1689 (A) an individual who owns or operates a licensed cannabis cultivation facility, as
1690 defined in Section [4-41a-102](#);

1691 (B) an individual who owns or operates a licensed medical cannabis pharmacy; and

1692 (C) a law enforcement officer.

1693 (b) The commissioner of the Department of Agriculture and Food shall ensure that at
1694 least one individual appointed under Subsection (2)(a)(ii)(A) or (B) also owns or operates a
1695 licensed cannabis processing facility.

1696 (3) (a) Subject to Subsection (3)(b), a member of the advisory board shall serve for a
1697 four year term.

1698 (b) When appointing the initial membership of the advisory board, the executive
1699 director and the commissioner of the Department of Agriculture and Food shall coordinate to

1700 appoint four advisory board members to serve a term of two years to ensure that approximately
1701 half of the board is appointed every two years.

1702 (4) (a) If an advisory board member is no longer able to serve as a member, a new
1703 member shall be appointed in the same manner as the original appointment.

1704 (b) A member appointed in accordance with Subsection (4)(a) shall serve for the
1705 remainder of the unexpired term of the original appointment.

1706 (5) (a) A majority of the advisory board members constitutes a quorum.

1707 (b) The action of a majority of a quorum constitutes an action of the advisory board.

1708 (c) The advisory board shall annually designate one of the advisory board's members to
1709 serve as chair for a one-year period.

1710 (6) An advisory board member may not receive compensation or benefits for the
1711 member's service on the advisory board but may receive per diem and reimbursement for travel
1712 expenses incurred as an advisory board member in accordance with:

1713 (a) Sections [63A-3-106](#) and [63A-3-107](#); and

1714 (b) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
1715 [63A-3-107](#).

1716 (7) The department shall:

1717 (a) provide staff support for the advisory board; and

1718 (b) assist the advisory board in conducting meetings.

1719 Section 20. Section **26B-1-435.1** is amended to read:

1720 **26B-1-435.1. Medical Cannabis Policy Advisory Board duties.**

1721 (1) The advisory board may recommend:

1722 (a) to the department or the Department of Agriculture and Food changes to current or
1723 proposed medical cannabis rules or statutes;

1724 (b) to the appropriate legislative committee whether the advisory board supports a
1725 change to medical cannabis statutes.

1726 (2) The advisory board shall:

1727 (a) review any draft rule that is authorized under [~~this chapter~~] Chapter 4, Part 2,
1728 Cannabinoid Research and Medical Cannabis, or Title 4, Chapter 41a, Cannabis Production
1729 Establishments and Pharmacies;

1730 (b) consult with the Department of Agriculture and Food regarding the issuance of an

1731 additional:

- 1732 (i) cultivation facility license under Section 4-41a-205; or
1733 (ii) pharmacy license under Section 4-41a-1005;
1734 (c) consult with the department regarding cannabis patient education;
1735 (d) consult regarding the reasonableness of any fees set by the department or the Utah
1736 Department of Agriculture and Food that pertain to the medical cannabis program; and
1737 (e) consult regarding any issue pertaining to medical cannabis when asked by the
1738 department or the Utah Department of Agriculture and Food.

1739 Section 21. Section 26B-1-502 is amended to read:

1740 **26B-1-502. Initial review.**

1741 (1) Within seven days after the day on which the department knows that a qualified
1742 individual has died or is an individual described in Subsection 26B-1-501(7)(h), a person
1743 designated by the department shall:

- 1744 (a) (i) for a death, complete a deceased client report form, created by the department; or
1745 (ii) for an individual described in Subsection 26B-1-501(7)(h), complete a near fatality
1746 client report form, created by the department; and

1747 (b) forward the completed client report form to the director of the office or division
1748 that has jurisdiction over the region or facility.

1749 (2) The director of the office or division described in Subsection (1) shall, upon receipt
1750 of a near fatality client report form or a deceased client report form, immediately provide a
1751 copy of the form to:

- 1752 (a) the executive director; and
1753 (b) the fatality review coordinator or the fatality review coordinator's designee.

1754 (3) Within 10 days after the day on which the fatality review coordinator or the fatality
1755 review coordinator's designee receives a copy of the near fatality client report form or the
1756 deceased client report form, the fatality review coordinator or the fatality review coordinator's
1757 designee shall request a copy of all relevant department case records regarding the individual
1758 who is the subject of the client report form.

1759 (4) Each person who receives a request for a record described in Subsection (3) shall
1760 provide a copy of the record to the fatality review coordinator or the fatality review
1761 coordinator's designee, by a secure method, within seven days after the day on which the

1762 request is made.

1763 (5) Within 30 days after the day on which the fatality review coordinator or the fatality
1764 review coordinator's designee receives the case records requested under Subsection (3), the
1765 fatality review coordinator, or the fatality review coordinator's designee, shall:

1766 (a) review the client report form, the case files, and other relevant information received
1767 by the fatality review coordinator; and

1768 (b) make a recommendation to the director of the Division of Continuous Quality and
1769 Improvement regarding whether a formal review of the death or near fatality should be
1770 conducted.

1771 (6) (a) In accordance with Subsection (6)(b), within seven days after the day on which
1772 the fatality review coordinator or the fatality review coordinator's designee makes the
1773 recommendation described in Subsection (5)(b), the director of the Division of Continuous
1774 Quality and Improvement or the director's designee shall determine whether to order that a
1775 review of the death or near fatality be conducted.

1776 (b) The director of the Division of Continuous Quality and Improvement or the
1777 director's designee shall order that a formal review of the death or near fatality be conducted if:

1778 (i) at the time of the near fatality or the death, the qualified individual is:

1779 (A) an individual described in Subsection [~~26B-1-501(6)(a)~~] 26B-1-501(7)(a) or (b),
1780 unless:

1781 (I) the near fatality or the death is due to a natural cause; or

1782 (II) the director of the Division of Continuous Quality and Improvement or the
1783 director's designee determines that the near fatality or the death was not in any way related to
1784 services that were provided by, or under the direction of, the department or a division of the
1785 department; or

1786 (B) a child in foster care or substitute care, unless the near fatality or the death is due
1787 to:

1788 (I) a natural cause; or

1789 (II) an accident;

1790 (ii) it appears, based on the information provided to the director of the Division of
1791 Continuous Quality and Improvement or the director's designee, that:

1792 (A) a provision of law, rule, policy, or procedure relating to the qualified individual or

1793 the individual's family may not have been complied with;
1794 (B) the near fatality or the fatality was not responded to properly;
1795 (C) a law, rule, policy, or procedure may need to be changed; or
1796 (D) additional training is needed;
1797 (iii) (A) the death is caused by suicide; or
1798 (B) the near fatality is caused by attempted suicide; or
1799 (iv) the director of the Division of Continuous Quality and Improvement or the
1800 director's designee determines that another reason exists to order that a review of the near
1801 fatality or the death be conducted.

1802 Section 22. Section **26B-2-101** is amended to read:

1803 **26B-2-101. Definitions.**

1804 As used in this part:

1805 (1) "Adoption services" means the same as that term is defined in Section [80-2-801](#).

1806 (2) "Adult day care" means nonresidential care and supervision:

1807 (a) for three or more adults for at least four but less than 24 hours a day; and

1808 (b) that meets the needs of functionally impaired adults through a comprehensive
1809 program that provides a variety of health, social, recreational, and related support services in a
1810 protective setting.

1811 (3) "Applicant" means a person that applies for an initial license or a license renewal
1812 under this part.

1813 (4) (a) "Associated with the licensee" means that an individual is:

1814 (i) affiliated with a licensee as an owner, director, member of the governing body,
1815 employee, agent, provider of care, department contractor, or volunteer; or

1816 (ii) applying to become affiliated with a licensee in a capacity described in Subsection
1817 (4)(a)(i).

1818 (b) "Associated with the licensee" does not include:

1819 (i) service on the following bodies, unless that service includes direct access to a child
1820 or a vulnerable adult:

1821 (A) a local mental health authority described in Section [17-43-301](#);

1822 (B) a local substance abuse authority described in Section [17-43-201](#); or

1823 (C) a board of an organization operating under a contract to provide mental health or

1824 substance use programs, or services for the local mental health authority or substance abuse
1825 authority; or
1826 (ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised
1827 at all times.
1828 (5) (a) "Boarding school" means a private school that:
1829 (i) uses a regionally accredited education program;
1830 (ii) provides a residence to the school's students:
1831 (A) for the purpose of enabling the school's students to attend classes at the school; and
1832 (B) as an ancillary service to educating the students at the school;
1833 (iii) has the primary purpose of providing the school's students with an education, as
1834 defined in Subsection (5)(b)(i); and
1835 (iv) (A) does not provide the treatment or services described in Subsection [~~(38)~~(a)]
1836 (39)(a); or
1837 (B) provides the treatment or services described in Subsection [~~(38)~~(a)] (39)(a) on a
1838 limited basis, as described in Subsection (5)(b)(ii).
1839 (b) (i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for
1840 one or more grades from kindergarten through grade 12.
1841 (ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or
1842 services described in Subsection [~~(38)~~(a)] (39)(a) on a limited basis if:
1843 (A) the treatment or services described in Subsection [~~(38)~~(a)] (39)(a) are provided
1844 only as an incidental service to a student; and
1845 (B) the school does not:
1846 (I) specifically solicit a student for the purpose of providing the treatment or services
1847 described in Subsection [~~(38)~~(a)] (39)(a); or
1848 (II) have a primary purpose of providing the treatment or services described in
1849 Subsection [~~(38)~~(a)] (39)(a).
1850 (c) "Boarding school" does not include a therapeutic school.
1851 (6) "Certification" means a less restrictive level of licensure issued by the department.
1852 [~~(6)~~] (7) "Child" means an individual under 18 years old.
1853 [~~(7)~~] (8) "Child placing" means receiving, accepting, or providing custody or care for
1854 any child, temporarily or permanently, for the purpose of:

- 1855 (a) finding a person to adopt the child;
- 1856 (b) placing the child in a home for adoption; or
- 1857 (c) foster home placement.
- 1858 ~~[(8)]~~ (9) "Child-placing agency" means a person that engages in child placing.
- 1859 ~~[(9)]~~ (10) "Client" means an individual who receives or has received services from a
- 1860 licensee.
- 1861 ~~[(10)]~~ (11) (a) "Congregate care program" means any of the following that provide
- 1862 services to a child:
- 1863 (i) an outdoor youth program;
- 1864 (ii) a residential support program;
- 1865 (iii) a residential treatment program; or
- 1866 (iv) a therapeutic school.
- 1867 (b) "Congregate care program" does not include a human services program that:
- 1868 (i) is licensed to serve adults; and
- 1869 (ii) is approved by the office to service a child for a limited time.
- 1870 ~~[(11)]~~ (12) "Day treatment" means specialized treatment that is provided to:
- 1871 (a) a client less than 24 hours a day; and
- 1872 (b) four or more persons who:
- 1873 (i) are unrelated to the owner or provider; and
- 1874 (ii) have emotional, psychological, developmental, physical, or behavioral
- 1875 dysfunctions, impairments, or chemical dependencies.
- 1876 ~~[(12)]~~ (13) "Department contractor" means an individual who:
- 1877 (a) provides services under a contract with the department; and
- 1878 (b) due to the contract with the department, has or will likely have direct access to a
- 1879 child or vulnerable adult.
- 1880 ~~[(13)]~~ (14) "Direct access" means that an individual has, or likely will have:
- 1881 (a) contact with or access to a child or vulnerable adult that provides the individual
- 1882 with an opportunity for personal communication or touch; or
- 1883 (b) an opportunity to view medical, financial, or other confidential personal identifying
- 1884 information of the child, the child's parents or legal guardians, or the vulnerable adult.
- 1885 ~~[(14)]~~ (15) "Directly supervised" means that an individual is being supervised under

1886 the uninterrupted visual and auditory surveillance of another individual who has a current
1887 background [~~screening~~] check approval issued by the office.

1888 [~~(15)~~] (16) "Director" means the director of the office.

1889 [~~(16)~~] (17) "Domestic violence" means the same as that term is defined in Section
1890 [77-36-1](#).

1891 [~~(17)~~] (18) "Domestic violence treatment program" means a nonresidential program
1892 designed to provide psychological treatment and educational services to perpetrators and
1893 victims of domestic violence.

1894 [~~(18)~~] (19) "Elder adult" means a person 65 years old or older.

1895 [~~(19)~~] (20) "Foster home" means a residence that is licensed or certified by the office
1896 for the full-time substitute care of a child.

1897 [~~(20)~~] (21) "Health benefit plan" means the same as that term is defined in Section
1898 [31A-22-634](#).

1899 [~~(21)~~] (22) "Health care provider" means the same as that term is defined in Section
1900 [78B-3-403](#).

1901 [~~(22)~~] (23) "Health insurer" means the same as that term is defined in Section
1902 [31A-22-615.5](#).

1903 [~~(23)~~] (24) (a) "Human services program" means:

1904 (i) a foster home;

1905 (ii) a therapeutic school;

1906 (iii) a youth program;

1907 (iv) an outdoor youth program;

1908 (v) a residential treatment program;

1909 (vi) a residential support program;

1910 (vii) a resource family home;

1911 (viii) a recovery residence; or

1912 (ix) a facility or program that provides:

1913 (A) adult day care;

1914 (B) day treatment;

1915 (C) outpatient treatment;

1916 (D) domestic violence treatment;

- 1917 (E) child-placing services;
- 1918 (F) social detoxification; or
- 1919 (G) any other human services that are required by contract with the department to be
- 1920 licensed with the department.
- 1921 (b) "Human services program" does not include:
- 1922 (i) a boarding school; or
- 1923 (ii) a residential, vocational and life skills program, as defined in Section [13-53-102](#).
- 1924 [~~(24)~~] (25) "Indian child" means the same as that term is defined in 25 U.S.C. Sec.
- 1925 1903.
- 1926 [~~(25)~~] (26) "Indian country" means the same as that term is defined in 18 U.S.C. Sec.
- 1927 1151.
- 1928 [~~(26)~~] (27) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec.
- 1929 1903.
- 1930 [~~(27)~~] (28) "Intermediate secure treatment" means 24-hour specialized residential
- 1931 treatment or care for an individual who:
- 1932 (a) cannot live independently or in a less restrictive environment; and
- 1933 (b) requires, without the individual's consent or control, the use of locked doors to care
- 1934 for the individual.
- 1935 [~~(28)~~] (29) "Licensee" means an individual or a human services program licensed by
- 1936 the office.
- 1937 [~~(29)~~] (30) "Local government" means a city, town, metro township, or county.
- 1938 [~~(30)~~] (31) "Minor" means child.
- 1939 [~~(31)~~] (32) "Office" means the Office of Licensing within the department.
- 1940 [~~(32)~~] (33) "Outdoor youth program" means a program that provides:
- 1941 (a) services to a child that has:
- 1942 (i) a chemical dependency; or
- 1943 (ii) a dysfunction or impairment that is emotional, psychological, developmental,
- 1944 physical, or behavioral;
- 1945 (b) a 24-hour outdoor group living environment; and
- 1946 (c) (i) regular therapy, including group, individual, or supportive family therapy; or
- 1947 (ii) informal therapy or similar services, including wilderness therapy, adventure

1948 therapy, or outdoor behavioral healthcare.

1949 [~~(33)~~] (34) "Outpatient treatment" means individual, family, or group therapy or
1950 counseling designed to improve and enhance social or psychological functioning for those
1951 whose physical and emotional status allows them to continue functioning in their usual living
1952 environment.

1953 [~~(34)~~] (35) "Practice group" or "group practice" means two or more health care
1954 providers legally organized as a partnership, professional corporation, or similar association,
1955 for which:

1956 (a) substantially all of the services of the health care providers who are members of the
1957 group are provided through the group and are billed in the name of the group and amounts
1958 received are treated as receipts of the group; and

1959 (b) the overhead expenses of and the income from the practice are distributed in
1960 accordance with methods previously determined by members of the group.

1961 [~~(35)~~] (36) "Private-placement child" means a child whose parent or guardian enters
1962 into a contract with a congregate care program for the child to receive services.

1963 [~~(36)~~] (37) (a) "Recovery residence" means a home, residence, or facility that meets at
1964 least two of the following requirements:

1965 (i) provides a supervised living environment for individuals recovering from a
1966 substance use disorder;

1967 (ii) provides a living environment in which more than half of the individuals in the
1968 residence are recovering from a substance use disorder;

1969 (iii) provides or arranges for residents to receive services related to the resident's
1970 recovery from a substance use disorder, either on or off site;

1971 (iv) is held out as a living environment in which individuals recovering from substance
1972 abuse disorders live together to encourage continued sobriety; or

1973 (v) (A) receives public funding; or

1974 (B) is run as a business venture, either for-profit or not-for-profit.

1975 (b) "Recovery residence" does not mean:

1976 (i) a residential treatment program;

1977 (ii) residential support program; or

1978 (iii) a home, residence, or facility, in which:

1979 (A) residents, by a majority vote of the residents, establish, implement, and enforce
1980 policies governing the living environment, including the manner in which applications for
1981 residence are approved and the manner in which residents are expelled;

1982 (B) residents equitably share rent and housing-related expenses; and

1983 (C) a landlord, owner, or operator does not receive compensation, other than fair
1984 market rental income, for establishing, implementing, or enforcing policies governing the
1985 living environment.

1986 [~~(37)~~] (38) "Regular business hours" means:

1987 (a) the hours during which services of any kind are provided to a client; or

1988 (b) the hours during which a client is present at the facility of a licensee.

1989 [~~(38)~~] (39) (a) "Residential support program" means a program that arranges for or
1990 provides the necessities of life as a protective service to individuals or families who have a
1991 disability or who are experiencing a dislocation or emergency that prevents them from
1992 providing these services for themselves or their families.

1993 (b) "Residential support program" includes a program that provides a supervised living
1994 environment for individuals with dysfunctions or impairments that are:

1995 (i) emotional;

1996 (ii) psychological;

1997 (iii) developmental; or

1998 (iv) behavioral.

1999 (c) Treatment is not a necessary component of a residential support program.

2000 (d) "Residential support program" does not include:

2001 (i) a recovery residence; or

2002 (ii) a program that provides residential services that are performed:

2003 (A) exclusively under contract with the department and provided to individuals through
2004 the Division of Services for People with Disabilities; or

2005 (B) in a facility that serves fewer than four individuals.

2006 [~~(39)~~] (40) (a) "Residential treatment" means a 24-hour group living environment for
2007 four or more individuals unrelated to the owner or provider that offers room or board and
2008 specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or
2009 habilitation services for persons with emotional, psychological, developmental, or behavioral

2010 dysfunctions, impairments, or chemical dependencies.

2011 (b) "Residential treatment" does not include a:

2012 (i) boarding school;

2013 (ii) foster home; or

2014 (iii) recovery residence.

2015 [~~(40)~~] (41) "Residential treatment program" means a program or facility that provides:

2016 (a) residential treatment; or

2017 (b) intermediate secure treatment.

2018 [~~(41)~~] (42) "Seclusion" means the involuntary confinement of an individual in a room

2019 or an area:

2020 (a) away from the individual's peers; and

2021 (b) in a manner that physically prevents the individual from leaving the room or area.

2022 [~~(42)~~] (43) "Social detoxification" means short-term residential services for persons

2023 who are experiencing or have recently experienced drug or alcohol intoxication, that are

2024 provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing

2025 and Inspection, and that include:

2026 (a) room and board for persons who are unrelated to the owner or manager of the
2027 facility;

2028 (b) specialized rehabilitation to acquire sobriety; and

2029 (c) aftercare services.

2030 [~~(43)~~] (44) "Substance abuse disorder" or "substance use disorder" mean the same as

2031 "substance use disorder" is defined in Section [26B-5-501](#).

2032 [~~(44)~~] (45) "Substance abuse treatment program" or "substance use disorder treatment

2033 program" means a program:

2034 (a) designed to provide:

2035 (i) specialized drug or alcohol treatment;

2036 (ii) rehabilitation; or

2037 (iii) habilitation services; and

2038 (b) that provides the treatment or services described in Subsection [~~(44)~~](a) (45)(a) to

2039 persons with:

2040 (i) a diagnosed substance use disorder; or

- 2041 (ii) chemical dependency disorder.
- 2042 [~~(45)~~] (46) "Therapeutic school" means a residential group living facility:
- 2043 (a) for four or more individuals that are not related to:
- 2044 (i) the owner of the facility; or
- 2045 (ii) the primary service provider of the facility;
- 2046 (b) that serves students who have a history of failing to function:
- 2047 (i) at home;
- 2048 (ii) in a public school; or
- 2049 (iii) in a nonresidential private school; and
- 2050 (c) that offers:
- 2051 (i) room and board; and
- 2052 (ii) an academic education integrated with:
- 2053 (A) specialized structure and supervision; or
- 2054 (B) services or treatment related to:
- 2055 (I) a disability;
- 2056 (II) emotional development;
- 2057 (III) behavioral development;
- 2058 (IV) familial development; or
- 2059 (V) social development.
- 2060 [~~(46)~~] (47) "Unrelated persons" means persons other than parents, legal guardians,
- 2061 grandparents, brothers, sisters, uncles, or aunts.
- 2062 [~~(47)~~] (48) "Vulnerable adult" means an elder adult or an adult who has a temporary or
- 2063 permanent mental or physical impairment that substantially affects the person's ability to:
- 2064 (a) provide personal protection;
- 2065 (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- 2066 (c) obtain services necessary for health, safety, or welfare;
- 2067 (d) carry out the activities of daily living;
- 2068 (e) manage the adult's own resources; or
- 2069 (f) comprehend the nature and consequences of remaining in a situation of abuse,
- 2070 neglect, or exploitation.
- 2071 [~~(48)~~] (49) (a) "Youth program" means a program designed to provide behavioral,

2072 substance use, or mental health services to minors that:

2073 (i) serves adjudicated or nonadjudicated youth;

2074 (ii) charges a fee for the program's services;

2075 (iii) may provide host homes or other arrangements for overnight accommodation of

2076 the youth;

2077 (iv) may provide all or part of the program's services in the outdoors;

2078 (v) may limit or censor access to parents or guardians; and

2079 (vi) prohibits or restricts a minor's ability to leave the program at any time of the

2080 minor's own free will.

2081 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl

2082 Scouts, 4-H, and other such organizations.

2083 ~~[(49)]~~ (50) (a) "Youth transportation company" means any person that transports a

2084 child for payment to or from a congregate care program in Utah.

2085 (b) "Youth transportation company" does not include:

2086 (i) a relative of the child;

2087 (ii) a state agency; or

2088 (iii) a congregate care program's employee who transports the child from the

2089 congregate care program that employs the employee and returns the child to the same

2090 congregate care program.

2091 Section 23. Section **26B-2-103** is amended to read:

2092 **26B-2-103. Division of Licensing and Background Checks.**

2093 (1) There is created the ~~[Office of Licensing]~~ Division of Licensing and Background

2094 Checks within the department.

2095 (2) The ~~[office]~~ division shall be the licensing and background screening authority for

2096 the department, and is vested with all the powers, duties, and responsibilities described in:

2097 (a) this part;

2098 (b) Part 2, Health Care Facility Licensing and Inspection; ~~[and]~~

2099 (c) Part 4, Child Care Licensing; and

2100 ~~[(e)]~~ (d) Part 6, Mammography Quality Assurance.

2101 (3) The executive director shall appoint the director of the ~~[office]~~ division.

2102 (4) There are created within the division the Office of Licensing and the Office of

2103 Background Processing.

2104 [~~(4) The director shall have a bachelor's degree from an accredited university or~~
2105 ~~college, be experienced in administration, and be knowledgeable of health and human services~~
2106 ~~licensing.]~~

2107 Section 24. Section **26B-2-104** is amended to read:

2108 **26B-2-104. Division responsibilities.**

2109 (1) Subject to the requirements of federal and state law, the office shall:

2110 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

2111 Rulemaking Act, to establish:

2112 (i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for
2113 licensees, that shall be limited to:

2114 (A) fire safety;

2115 (B) food safety;

2116 (C) sanitation;

2117 (D) infectious disease control;

2118 (E) safety of the:

2119 (I) physical facility and grounds; and

2120 (II) area and community surrounding the physical facility;

2121 (F) transportation safety;

2122 (G) emergency preparedness and response;

2123 (H) the administration of medical standards and procedures, consistent with the related
2124 provisions of this title;

2125 (I) staff and client safety and protection;

2126 (J) the administration and maintenance of client and service records;

2127 (K) staff qualifications and training, including standards for permitting experience to
2128 be substituted for education, unless prohibited by law;

2129 (L) staff to client ratios;

2130 (M) access to firearms; and

2131 (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

2132 (ii) basic health and safety standards for therapeutic schools, that shall be limited to:

2133 (A) fire safety, except that the standards are limited to those required by law or rule

2134 under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

2135 (B) food safety;

2136 (C) sanitation;

2137 (D) infectious disease control, except that the standards are limited to:

2138 (I) those required by law or rule under this title, or Title 26A, Local Health Authorities;

2139 and

2140 (II) requiring a separate room for clients who are sick;

2141 (E) safety of the physical facility and grounds, except that the standards are limited to

2142 those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks

2143 Act;

2144 (F) transportation safety;

2145 (G) emergency preparedness and response;

2146 (H) access to appropriate medical care, including:

2147 (I) subject to the requirements of law, designation of a person who is authorized to

2148 dispense medication; and

2149 (II) storing, tracking, and securing medication;

2150 (I) staff and client safety and protection that permits the school to provide for the direct

2151 supervision of clients at all times;

2152 (J) the administration and maintenance of client and service records;

2153 (K) staff qualifications and training, including standards for permitting experience to

2154 be substituted for education, unless prohibited by law;

2155 (L) staff to client ratios;

2156 (M) access to firearms; and

2157 (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

2158 (iii) procedures and standards for permitting a licensee to:

2159 (A) provide in the same facility and under the same conditions as children, residential

2160 treatment services to a person 18 years old or older who:

2161 (I) begins to reside at the licensee's residential treatment facility before the person's

2162 18th birthday;

2163 (II) has resided at the licensee's residential treatment facility continuously since the

2164 time described in Subsection (1)(a)(iii)(A)(I);

2165 (III) has not completed the course of treatment for which the person began residing at
2166 the licensee's residential treatment facility; and

2167 (IV) voluntarily consents to complete the course of treatment described in Subsection
2168 (1)(a)(iii)(A)(III); or

2169 (B) (I) provide residential treatment services to a child who is:

2170 (Aa) at least 12 years old or, as approved by the office, younger than 12 years old; and
2171 (Bb) under the custody of the department, or one of its divisions; and

2172 (II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I),
2173 residential treatment services to a person who is:

2174 (Aa) at least 18 years old, but younger than 21 years old; and
2175 (Bb) under the custody of the department, or one of its divisions;

2176 (iv) minimum administration and financial requirements for licensees;
2177 (v) guidelines for variances from rules established under this Subsection (1);
2178 (vi) ethical standards, as described in Subsection 78B-6-106(3), and minimum
2179 responsibilities of a child-placing agency that provides adoption services and that is licensed
2180 under this part;

2181 (vii) what constitutes an "outpatient treatment program" for purposes of this part;
2182 (viii) a procedure requiring a licensee to provide an insurer the licensee's records
2183 related to any services or supplies billed to the insurer, and a procedure allowing the licensee
2184 and the insurer to contact the Insurance Department to resolve any disputes;

2185 (ix) a protocol for the office to investigate and process complaints about licensees;
2186 (x) a procedure for a licensee to:

2187 (A) report the use of a restraint or seclusion within one business day after the day on
2188 which the use of the restraint or seclusion occurs; and

2189 (B) report a critical incident within one business day after the day on which the
2190 incident occurs;

2191 (xi) guidelines for the policies and procedures described in Sections 26B-2-109 and
2192 26B-2-123;

2193 (xii) a procedure for the office to review and approve the policies and procedures
2194 described in Sections 26B-2-109 and 26B-2-123; and

2195 (xiii) a requirement that each human services program publicly post information that

2196 informs an individual how to submit a complaint about a human services program to the office;
2197 (b) enforce rules relating to the office;
2198 (c) issue licenses in accordance with this part;
2199 (d) if the United States Department of State executes an agreement with the office that
2200 designates the office to act as an accrediting entity in accordance with the Intercountry
2201 Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to
2202 provide intercountry adoption services pursuant to:
2203 (i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and
2204 (ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L.
2205 No. 106-279;
2206 (e) make rules to implement the provisions of Subsection (1)(d);
2207 (f) conduct surveys and inspections of licensees and facilities in accordance with
2208 Section [26B-2-107](#);
2209 (g) collect licensure fees;
2210 (h) notify licensees of the name of a person within the department to contact when
2211 filing a complaint;
2212 (i) investigate complaints regarding any licensee or human services program;
2213 (j) have access to all records, correspondence, and financial data required to be
2214 maintained by a licensee;
2215 (k) have authority to interview any client, family member of a client, employee, or
2216 officer of a licensee;
2217 (l) have authority to deny, condition, revoke, suspend, or extend any license issued by
2218 the department under this part by following the procedures and requirements of Title 63G,
2219 Chapter 4, Administrative Procedures Act;
2220 (m) electronically post notices of agency action issued to a human services program,
2221 with the exception of a foster home, on the office's website, in accordance with Title 63G,
2222 Chapter 2, Government Records Access and Management Act; and
2223 (n) upon receiving a local government's request under Section [26B-2-118](#), notify the
2224 local government of new human services program license applications, except for foster
2225 homes, for human services programs located within the local government's jurisdiction.
2226 (2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a

2227 licensee to establish and comply with an emergency response plan that requires clients and staff
2228 to:

2229 (a) immediately report to law enforcement any significant criminal activity, as defined
2230 by rule, committed:

2231 (i) on the premises where the licensee operates its human services program;

2232 (ii) by or against its clients; or

2233 (iii) by or against a staff member while the staff member is on duty;

2234 (b) immediately report to emergency medical services any medical emergency, as
2235 defined by rule:

2236 (i) on the premises where the licensee operates its human services program;

2237 (ii) involving its clients; or

2238 (iii) involving a staff member while the staff member is on duty; and

2239 (c) immediately report other emergencies that occur on the premises where the licensee
2240 operates its human services program to the appropriate emergency services agency.

2241 Section 25. Section **26B-2-120** is amended to read:

2242 **26B-2-120. Background check -- Direct access to children or vulnerable adults.**

2243 (1) As used in this section:

2244 (a) (i) "Applicant" means ~~[, notwithstanding Section 26B-2-101]~~ an individual who is
2245 associated with a certification, contract, or licensee with the department under this part and has
2246 direct access, including:

2247 (A) ~~[an individual who applies for an initial license or certification or a license or~~
2248 ~~certification renewal under this part]~~ an adoptive parent or prospective adoptive parent,
2249 including an applicant for an adoption in accordance with Section 78B-6-128;

2250 (B) ~~[an individual who is associated with a licensee and has or will likely have direct~~
2251 ~~access to a child or a vulnerable adult]~~ a foster parent or prospective foster parent;

2252 (C) an individual who provides respite care to a foster parent or an adoptive parent on
2253 more than one occasion;

2254 ~~[(D)] a department contractor;~~

2255 ~~[(E)]~~ (D) an individual who transports a child for a youth transportation company;

2256 ~~[(F)]~~ (E) an individual who provides certified peer support, as defined in Section

2257 26B-5-610;

2258 (F) an individual who provides peer support, has a disability or a family member with a
2259 disability; or is in recovery from a mental illness or a substance use disorder;

2260 (G) an individual who has lived experience with the services provided by the
2261 department, and uses that lived experience to provide support, guidance, or services to promote
2262 resiliency and recovery;

2263 (H) an individual who is identified as a mental health professional, licensed under Title
2264 58, Chapter 60, Mental Health Professional Practice Act, and engaged in the practice of mental
2265 health therapy, as defined in Section [58-60-102](#);

2266 ~~(I) [a guardian submitting an application on behalf of an individual, other than the child~~
2267 ~~or vulnerable adult who is receiving the service, if the individual]~~ an individual, other than the
2268 child or vulnerable adult receiving the service, who is 12 years old or older and resides in a
2269 home, that is licensed or certified by the [office] division; or

2270 ~~[(G) a guardian submitting an application on behalf of an individual, other than the~~
2271 ~~child or vulnerable adult who is receiving the service, if the individual is 12 years old or older~~
2272 ~~and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D)]~~

2273 (J) an individual who is 12 years old or older and is associated with a certification,
2274 contract, or licensee with the department under this part and has or will likely have direct
2275 access.

2276 (ii) "Applicant" does not include:

2277 (A) an individual who is in the custody of the Division of Child and Family Services or
2278 the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services;
2279 ~~[or]~~

2280 (B) an individual who applies for employment with, or is employed by, the Department
2281 of Health and Human Services[-];

2282 (C) a parent of a person receiving services from the Division of Services for People
2283 with Disabilities, if the parent provides direct care to and resides with the person, including if
2284 the parent provides direct care to and resides with the person pursuant to a court order; or

2285 (D) an individual or a department contractor who provides services in an adults only
2286 substance use disorder program, as defined by rule adopted by the Department of Health and
2287 Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
2288 Act, and who is not a program director or a member, as defined by Section [26B-2-105](#), of the

2289 program.

2290 (b) "Application" means a background [~~screening~~] check application to the office.

2291 (c) "Bureau" means the Bureau of Criminal Identification within the Department of
2292 Public Safety, created in Section [53-10-201](#).

2293 [~~(d) "Certified peer support specialist" means the same as that term is defined in~~
2294 ~~Section [26B-5-610](#);~~]

2295 [~~(e)~~] (d) "Criminal finding" means a record of:

2296 (i) an arrest [~~or~~] for a criminal offense;

2297 (ii) a warrant for [~~an~~] a criminal arrest;

2298 [~~(ii)~~] (iii) charges for a criminal offense; or

2299 [~~(iii)~~] (iv) a criminal conviction.

2300 [(f)] (e) "Direct access" means that an individual has, or likely will have:

2301 (i) contact with or access to a child or vulnerable adult by which the individual will
2302 have the opportunity for personal communication or touch with the child or vulnerable adult; or

2303 (ii) an opportunity to view medical, financial, or other confidential personal identifying
2304 information of the child, the child's parent or legal guardian, or the vulnerable adult.

2305 (f) (i) "Direct access qualified" means that the applicant has an eligible determination
2306 by the office within the license and renewal time period; and

2307 (ii) no more than 180 days have passed since the date on which the applicant's
2308 association with a certification, contract, or licensee with the department ends.

2309 (g) "Incidental care" means occasional care, not in excess of five hours per week and
2310 never overnight, for a foster child.

2311 (h) "Licensee" means an individual or a human services program licensed by the
2312 division.

2313 [~~(g) "Mental health professional" means an individual who:~~]

2314 [(i) is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;
2315 and]

2316 [(ii) engaged in the practice of mental health therapy.]

2317 [(h)] (i) "Non-criminal finding" means a record maintained in:

2318 (i) the Division of Child and Family Services' Management Information System
2319 described in Section [80-2-1001](#);

2320 (ii) the Division of Child and Family Services' Licensing Information System described
2321 in Section [80-2-1002](#);

2322 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
2323 exploitation database described in Section [26B-6-210](#);

2324 (iv) juvenile court arrest, adjudication, and disposition records;

2325 ~~[(iv)]~~ (v) the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex
2326 and Kidnap Offender Registry, or a national sex offender registry; or

2327 ~~[(v)]~~ (vi) a state child abuse or neglect registry.

2328 (j) "Office" means the Office of Background Processing within the department.

2329 ~~[(i) (i) "Peer support specialist" means an individual who:]~~

2330 ~~[(A) has a disability or a family member with a disability, or is in recovery from a
2331 mental illness or a substance use disorder; and]~~

2332 ~~[(B) uses personal experience to provide support, guidance, or services to promote
2333 resiliency and recovery.]~~

2334 ~~[(ii) "Peer support specialist" includes a certified peer support specialist.]~~

2335 ~~[(iii) "Peer support specialist" does not include a mental health professional.]~~

2336 ~~[(j)]~~ (k) "Personal identifying information" means:

2337 (i) current name, former names, nicknames, and aliases;

2338 (ii) date of birth;

2339 (iii) physical address and email address;

2340 (iv) telephone number;

2341 (v) driver license or other government-issued identification;

2342 (vi) social security number;

2343 (vii) only for applicants who are 18 years old or older, fingerprints, in a form specified
2344 by the office; and

2345 (viii) other information specified by the office by rule made in accordance with Title
2346 63G, Chapter 3, Utah Administrative Rulemaking Act.

2347 ~~[(k) "Practice of mental health therapy" means the same as that term is defined in
2348 Section [58-60-102](#).]~~

2349 (2) Except as provided in Subsection (12), an applicant or a representative shall submit
2350 the following to the office:

- 2351 (a) personal identifying information;
- 2352 (b) a fee established by the office under Section 63J-1-504; ~~[and]~~
- 2353 (c) a disclosure form, specified by the office, for consent for:
- 2354 (i) an initial background check upon ~~[submission of the information described in this~~
- 2355 ~~Subsection (2)]~~ association with a certification, contract, or licensee with the department;
- 2356 (ii) ongoing monitoring of fingerprints and registries until no longer ~~[associated with a~~
- 2357 ~~licensee for 90 days]~~ associated with a certification, contract, or licensee with the department
- 2358 for 180 days;
- 2359 (iii) a background check when the office determines that reasonable cause exists; and
- 2360 (iv) retention of personal identifying information, including fingerprints, for
- 2361 monitoring and notification as described in Subsections ~~[(3)(d)]~~ (3)(c) and (4); ~~[and]~~
- 2362 (d) if an applicant resided outside of the United States and its territories during the five
- 2363 years immediately preceding the day on which the information described in Subsections (2)(a)
- 2364 through (c) is submitted to the office, documentation establishing whether the applicant was
- 2365 convicted of a crime during the time that the applicant resided outside of the United States or
- 2366 its territories[-]; and
- 2367 (e) an application showing an applicant's association with a certification, contract, or a
- 2368 licensee with the department, for the purpose of the office tracking the direct access qualified
- 2369 status of the applicant, which expires 180 days after the date on which the applicant is no
- 2370 longer associated with a certification, contract, or a licensee with the department.
- 2371 (3) The office:
- 2372 (a) shall perform the following duties as part of a background check of an applicant
- 2373 before the office grants or denies direct access qualified status to an applicant:
- 2374 (i) check state and regional criminal background databases for the applicant's criminal
- 2375 history by:
- 2376 (A) submitting personal identifying information to the bureau for a search; or
- 2377 (B) using the applicant's personal identifying information to search state and regional
- 2378 criminal background databases as authorized under Section 53-10-108;
- 2379 (ii) submit the applicant's personal identifying information and fingerprints to the
- 2380 bureau for a criminal history search of applicable national criminal background databases;
- 2381 (iii) search the Division of Child and Family Services' Licensing Information System

2382 described in Section [80-2-1002](#);

2383 (iv) search the Sex and Kidnap Offender Registry described in Title 77, Chapter 41,
2384 Sex and Kidnap Offender Registry, or a national sex offender registry for an applicant 18 years
2385 old or older;

2386 ~~[(iv)]~~ (v) if the applicant is [applying to become] associated with a licensee for a
2387 prospective foster or adoptive parent, search the Division of Child and Family Services'
2388 Management Information System described in Section [80-2-1001](#) [for:];

2389 ~~[(A) the applicant; and]~~

2390 ~~[(B) any adult living in the applicant's home;]~~

2391 ~~[(v) for an applicant described in Subsection (1)(a)(i)(F), search the Division of Child~~
2392 ~~and Family Services' Management Information System described in Section [80-2-1001](#);~~

2393 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect,
2394 or exploitation database described in Section [26B-6-210](#);

2395 (vii) search the juvenile court records for substantiated findings of severe child abuse
2396 or neglect described in Section [80-3-404](#); and

2397 (viii) search the juvenile court arrest, adjudication, and disposition records, as provided
2398 under Section [78A-6-209](#);

2399 ~~[(b) shall conduct a background check of an applicant for an initial background check~~
2400 ~~upon submission of the information described in Subsection (2);]~~

2401 ~~[(c)]~~ (b) may conduct all or portions of a background check [of an applicant] in
2402 connection with determining whether an applicant is direct access qualified, as provided by
2403 rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative
2404 Rulemaking Act:

2405 (i) for an annual renewal; or

2406 (ii) when the office determines that reasonable cause exists;

2407 ~~[(d)]~~ (c) may submit an applicant's personal identifying information, including
2408 fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal
2409 background databases and for notifying the office of new criminal activity associated with the
2410 applicant;

2411 ~~[(e)]~~ (d) shall track the status of an applicant under this section to ensure that the
2412 applicant is not required to duplicate the submission of the applicant's fingerprints if the

2413 applicant ~~[applies for:]~~ is associated with more than one certification, contract, or licensee with
2414 the department;

2415 ~~[(i) more than one license;]~~

2416 ~~[(ii) direct access to a child or a vulnerable adult in more than one human services~~
2417 ~~program; or]~~

2418 ~~[(iii) direct access to a child or a vulnerable adult under a contract with the~~
2419 ~~department;]~~

2420 ~~[(f)]~~ (e) ~~[shall track the status of each individual with direct access to a child or a~~
2421 ~~vulnerable adult and notify the bureau within 90 days after the day on which the license expires~~
2422 ~~or the individual's direct access to a child or a vulnerable adult ceases]~~ shall notify the bureau
2423 when a direct access qualified individual has not been associated with a certification, contract,
2424 or licensee with the department for a period of 180 days;

2425 ~~[(g)]~~ (f) shall adopt measures to strictly limit access to personal identifying information
2426 solely to the individuals responsible for processing and entering the applications for
2427 background checks and to protect the security of the personal identifying information the office
2428 reviews under this Subsection (3);

2429 ~~[(h)]~~ (g) as necessary to comply with the federal requirement to check a state's child
2430 abuse and neglect registry regarding any ~~[individual]~~ applicant working in a congregate care
2431 program, shall:

2432 (i) search the Division of Child and Family Services' Licensing Information System
2433 described in Section [80-2-1002](#); and

2434 (ii) require the child abuse and neglect registry be checked in each state where an
2435 applicant resided at any time during the five years immediately preceding the day on which the
2436 ~~[applicant submits the information described in Subsection (2)]~~ application is submitted to the
2437 office; and

2438 ~~[(i)]~~ (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah
2439 Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to
2440 background checks.

2441 (4) (a) With the personal identifying information the office submits to the bureau under
2442 Subsection (3), the bureau shall check against state and regional criminal background databases
2443 for the applicant's criminal history.

2444 (b) With the personal identifying information and fingerprints the office submits to the
2445 bureau under Subsection (3), the bureau shall check against national criminal background
2446 databases for the applicant's criminal history.

2447 (c) Upon direction from the office, and with the personal identifying information and
2448 fingerprints the office submits to the bureau under Subsection [~~(3)(d)~~] (3)(c), the bureau shall:

2449 (i) maintain a separate file of the fingerprints for search by future submissions to the
2450 local and regional criminal records databases, including latent prints; and

2451 (ii) monitor state and regional criminal background databases and identify criminal
2452 activity associated with the applicant.

2453 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of
2454 Investigation Next Generation Identification System, to be retained in the Federal Bureau of
2455 Investigation Next Generation Identification System for the purpose of:

2456 (i) being searched by future submissions to the national criminal records databases,
2457 including the Federal Bureau of Investigation Next Generation Identification System and latent
2458 prints; and

2459 (ii) monitoring national criminal background databases and identifying criminal
2460 activity associated with the applicant.

2461 (e) The Bureau shall notify and release to the office all information of criminal activity
2462 associated with the applicant.

2463 (f) Upon notice that [~~an individual's direct access to a child or a vulnerable adult has~~
2464 ~~ceased for 90 days]~~ an individual who has direct access qualified status will no longer be
2465 associated with a certification, contract, or licensee with the department, the bureau shall:

2466 (i) discard and destroy any retained fingerprints; and

2467 (ii) notify the Federal Bureau of Investigation when the license has expired or an
2468 individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau
2469 of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of
2470 Investigation Next Generation Identification System.

2471 (5) (a) Except as provided in Subsection (5)(b), [~~after conducting the background~~
2472 ~~check described in Subsections (3) and (4);]~~ the office shall deny [~~an application to an~~
2473 ~~applicant who, within three years before the day on which the applicant submits information to~~
2474 ~~the office under Subsection (2) for a background check, has been convicted of]~~ direct access

2475 qualified status to an applicant who, within three years from the date on which the office
2476 conducts the background check, was convicted of:

2477 (i) a felony or misdemeanor involving conduct that constitutes any of the following:

2478 (A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to
2479 animals, or bestiality;

2480 (B) a violation of any pornography law, including sexual exploitation of a minor or
2481 aggravated sexual exploitation of a minor;

2482 (C) sexual solicitation or prostitution;

2483 ~~[(D) an offense included in Title 76, Chapter 5, Offenses Against the Individual, Title~~
2484 ~~76, Chapter 5b, Sexual Exploitation Act, Title 76, Chapter 4, Part 4, Enticement of a Minor, or~~
2485 ~~Title 76, Chapter 7, Offenses Against the Family;]~~

2486 (D) a violent offense committed in the presence of a child, as described in Section
2487 [76-3-203.10](#);

2488 (E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;

2489 (F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;

2490 (G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;

2491 (H) an offense included in Title 76, Chapter 7, Offenses Against the Family;

2492 (I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;

2493 (J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass Destruction;

2494 (K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking

2495 Injunctions;

2496 ~~[(E)]~~ (L) aggravated arson, as described in Section [76-6-103](#);

2497 ~~[(F)]~~ (M) aggravated burglary, as described in Section [76-6-203](#);

2498 (N) aggravated exploitation of prostitution, as described in Section [76-10-1306](#);

2499 ~~[(G)]~~ (O) aggravated robbery, as described in Section [76-6-302](#);

2500 (P) endangering persons in a human services program, as described in Section
2501 [26B-2-113](#);

2502 (Q) failure to report, as described in Section [80-2-609](#);

2503 ~~[(H)]~~ (R) identity fraud crime, as described in Section [76-6-1102](#);

2504 (S) leaving a child unattended in a motor vehicle, as described in Section [76-10-2202](#);

2505 (T) riot, as described in Section [76-9-101](#);

2506 ~~[(F)]~~ (U) sexual battery, as described in Section ~~76-9-702.1~~; or
2507 (V) threatening with or using a dangerous weapon in a fight or quarrel, as described in
2508 Section 76-10-506; or

2509 ~~[(J) a violent offense committed in the presence of a child, as described in Section~~
2510 ~~76-3-203.10; or]~~

2511 (ii) a felony or misdemeanor offense committed outside of the state that, if committed
2512 in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

2513 (b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a
2514 peer support provider~~;~~ or a mental health professional, [or in a] if the applicant provides
2515 services in a program that serves only adults with a primary mental health diagnosis, with or
2516 without a co-occurring substance use disorder.

2517 (ii) The office shall conduct a comprehensive review of an applicant described in
2518 Subsection (5)(b)(i) in accordance with ~~[Subsection (6)]~~ Subsection (12).

2519 (c) The office shall deny direct access qualified status to an applicant if the office finds
2520 that a court order prohibits the applicant from having direct access to a child or vulnerable
2521 adult.

2522 (6) The office shall conduct a comprehensive review of an applicant's background
2523 check if the applicant:

2524 (a) has a felony or class A misdemeanor conviction ~~[for an offense described in~~
2525 ~~Subsection (5) with a date of conviction that is more than three years before the date on which~~
2526 ~~the applicant submits the information described in Subsection (2)]~~ that is more than three years
2527 from the date on which the office conducts the background check, for an offense described in
2528 Subsection (5)(a);

2529 (b) has a felony charge or conviction that is no more than 10 years from the date on
2530 which the office conducts the background check for an offense not described in Subsection ~~[(5)~~
2531 ~~with a date of charge or conviction that is no more than 10 years before the date on which the~~
2532 ~~applicant submits the application under Subsection (2) and no criminal findings or~~
2533 ~~non-criminal findings after the date of conviction]~~ (5)(a);

2534 (c) has a felony charge or conviction that is more than 10 years from the date on which
2535 the office conducts the background check, for an offense not described in Subsection (5)(a),
2536 with criminal or non-criminal findings after the date of the felony charge or conviction;

2537 ~~[(e)]~~ (d) has a class B misdemeanor or class C misdemeanor conviction ~~[for an offense~~
 2538 ~~described in Subsection (5) with a date of conviction that is more than three years after, and no~~
 2539 ~~more than 10 years before, the date on which the applicant submits the information described~~
 2540 ~~in Subsection (2) and no criminal findings or non-criminal findings after the date of conviction]~~
 2541 that is more than three years and no more than 10 years from the date on which the office
 2542 conducts the background check for an offense described in Subsection (5)(a);

2543 (e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10
 2544 years from the date on which the office conducts the background check, for an offense
 2545 described in Subsection (5)(a), with criminal or non-criminal findings after the date of
 2546 conviction;

2547 ~~[(d)]~~ (f) has a misdemeanor charge or conviction that is no more than three years from
 2548 the date on which the office conducts the background check for an offense not described in
 2549 Subsection ~~[(5) with a date of conviction that is no more than three years before the date on~~
 2550 ~~which the applicant submits information described in Subsection (2) and no criminal findings~~
 2551 ~~or non-criminal findings after the date of conviction]~~ (5)(a);

2552 (g) has a misdemeanor charge or conviction that is more than three years from the date
 2553 on which the office conducts the background check, for an offense not described in Subsection
 2554 (5)(a), with criminal or non-criminal findings after the date of charge or conviction;

2555 ~~[(e)]~~ (h) is currently subject to a plea in abeyance or diversion agreement for an offense
 2556 described in Subsection ~~[(5)]~~ (5)(a);

2557 ~~[(f)]~~ (i) appears on the Sex and Kidnap Offender Registry described in Title 77,
 2558 Chapter 41, Sex and Kidnap Offender Registry, or a national sex offender registry;

2559 ~~[(g)]~~ (j) has a record of an adjudication in juvenile court for an act that, if committed by
 2560 an adult, would be a felony or misdemeanor, if the applicant is:

2561 (i) under 28 years old; or

2562 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is
 2563 currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor
 2564 offense described in Subsection ~~[(5)]~~ (5)(a);

2565 ~~[(h)]~~ (k) has a pending charge for an offense described in Subsection ~~[(5)]~~ (5)(a);

2566 ~~[(i)]~~ (l) has a listing that occurred no more than 15 years from the date on which the
 2567 office conducts the background check in the Division of Child and Family Services' Licensing

2568 Information System described in Section [80-2-1002](#) [~~that occurred no more than 15 years~~
2569 ~~before the date on which the applicant submits the information described in Subsection (2) and~~
2570 ~~no criminal findings or non-criminal findings dated after the date of the listing];~~

2571 [(j)] (m) has a listing that occurred more than 15 years from the date on which the
2572 office conducts the background check in the Division of Child and Family Services' Licensing
2573 Information System described in Section [80-2-1002](#), with criminal or non-criminal findings
2574 after the date of the listing;

2575 (n) has a listing that occurred no more than 15 years from the date on which the office
2576 conducts the background check in the Division of Aging and Adult Services' vulnerable adult
2577 abuse, neglect, or exploitation database described in Section [26B-6-210](#) [~~that occurred no more~~
2578 than 15 years before the date on which the applicant submits the information described in
2579 Subsection (2) and no criminal findings or non-criminal findings dated after the date of the
2580 listing];

2581 (o) has a listing that occurred more than 15 years from the date on which the office
2582 conducts the background check in the Division of Aging and Adult Services' vulnerable adult
2583 abuse, neglect, or exploitation database described in Section [26B-6-210](#), with criminal or
2584 non-criminal findings after the date of the listing;

2585 [(k)] (p) has a substantiated finding that occurred no more than 15 years from the date
2586 on which the office conducts the background check of severe child abuse or neglect under
2587 Section [80-3-404](#) or [80-3-504](#) [~~that occurred no more than 15 years before the date on which~~
2588 the applicant submits the information described in Subsection (2) and no criminal findings or
2589 non-criminal findings dated after the date of the finding]; or

2590 (q) has a substantiated finding that occurred more than 15 years from the date on which
2591 the office conducts the background check of severe child abuse or neglect under Section
2592 [80-3-404](#) or [80-3-504](#), with criminal or non-criminal findings after the date of the listing.

2593 [(t)] (i) is seeking a position;

2594 [(A) as a peer support provider;]

2595 [(B) as a mental health professional; or]

2596 [(C) in a program that serves only adults with a primary mental health diagnosis, with
2597 or without a co-occurring substance use disorder; and]

2598 [(ii) within three years before the day on which the applicant submits the information

2599 described in Subsection (2):]

2600 [~~(A) has a felony or misdemeanor charge or conviction;~~]

2601 [~~(B) has a listing in the Division of Child and Family Services' Licensing Information~~

2602 ~~System described in Section 80-2-1002;~~]

2603 [~~(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse,~~

2604 ~~neglect, or exploitation database described in Section 26B-6-210; or]~~

2605 [~~(D) has a substantiated finding of severe child abuse or neglect under Section~~

2606 ~~80-3-404 or 80-3-504;~~]

2607 [~~(m) (i) (A) is seeking a position in a congregate care program;~~]

2608 [~~(B) is seeking to become a prospective foster or adoptive parent; or]~~

2609 [~~(C) is an applicant described in Subsection (1)(a)(i)(F); and]~~

2610 [~~(ii) (A) has an infraction conviction for conduct that constitutes an offense or violation~~

2611 ~~described in Subsection (5)(a)(i)(A) or (B);]~~

2612 [~~(B) has a listing in the Division of Child and Family Services' Licensing Information~~

2613 ~~System described in Section 80-2-1002;~~]

2614 [~~(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse,~~

2615 ~~neglect, or exploitation database described in Section 26B-6-210;~~]

2616 [~~(D) has a substantiated finding of severe child abuse or neglect under Section~~

2617 ~~80-3-404 or 80-3-504; or]~~

2618 [~~(E) has a listing on the registry check described in Subsection (13)(a) as having a~~

2619 ~~substantiated or supported finding of a severe type of child abuse or neglect as defined in~~

2620 ~~Section 80-1-102; or]~~

2621 [~~(n) is seeking to become a prospective foster or adoptive parent and has, or has an~~

2622 ~~adult living with the applicant who has, a conviction, finding, or listing described in Subsection~~

2623 ~~(6)(m)(ii):]~~

2624 (7) (a) The comprehensive review shall include an examination of:

2625 (i) the date of the offense or incident;

2626 (ii) the nature and seriousness of the offense or incident;

2627 (iii) the circumstances under which the offense or incident occurred;

2628 (iv) the age of the perpetrator when the offense or incident occurred;

2629 (v) whether the offense or incident was an isolated or repeated incident;

2630 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable
2631 adult, including:

2632 (A) actual or threatened, nonaccidental physical, mental, or financial harm;

2633 (B) sexual abuse;

2634 (C) sexual exploitation; or

2635 (D) negligent treatment;

2636 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric
2637 treatment received, or additional academic or vocational schooling completed; and

2638 (viii) the applicant's risk of harm to clientele in the program or in the capacity for
2639 which the applicant is applying[-];

2640 (ix) if the background check of an applicant is being conducted for the purpose of
2641 giving direct access qualified status to an applicant seeking a position in a congregate care
2642 program or to become a prospective foster or adoptive parent, any listing in the Division of
2643 Child and Family Services' Management Information System described in Section 80-2-1001.

2644 (b) At the conclusion of the comprehensive review, the office shall deny [~~an~~
2645 ~~application to an applicant if the office finds:] direct access qualified status to an applicant if
2646 the office finds the approval would likely create a risk of harm to a child or vulnerable adult.~~

2647 [~~(i) that approval would likely create a risk of harm to a child or a vulnerable adult; or]~~

2648 [~~(ii) an individual is prohibited from having direct access to a child or vulnerable adult~~
2649 ~~by court order.]~~

2650 (8) The office shall [~~approve an application]~~ grant direct access qualified status to an
2651 applicant who is not denied under this section.

2652 (9) (a) The office may conditionally [~~approve an application of]~~ grant direct access
2653 qualified status to an applicant, for a maximum of 60 days after the day on which the office
2654 sends written notice [to the applicant under Subsection (11)], without requiring that the
2655 applicant be directly supervised, if the office:

2656 (i) is awaiting the results of the criminal history search of national criminal background
2657 databases; and

2658 (ii) would otherwise [~~approve an application of]~~ grant direct access qualified status to
2659 the applicant under this section.

2660 (b) The office may conditionally [~~approve an application of]~~ grant direct access

2661 qualified status to an applicant, for a maximum of one year after the day on which the office
2662 sends written notice [to the applicant under Subsection (11)], without requiring that the
2663 applicant be directly supervised if the office:

2664 (i) is awaiting the results of an out-of-state registry for providers other than foster and
2665 adoptive parents; and

2666 (ii) would otherwise [~~approve an application of~~] grant direct access qualified status to
2667 the applicant under this section.

2668 (c) Upon receiving the results of the criminal history search of a national criminal
2669 background database, the office shall [~~approve or deny the application of~~] grant or deny direct
2670 access qualified status to the applicant in accordance with this section.

2671 (10) (a) Each time an applicant is associated with a licensee, the department shall
2672 review the current status of the applicant's background check to ensure the applicant is still
2673 eligible for direct access qualified status in accordance with this section.

2674 [~~(a)~~] (b) A licensee [~~or department contractor~~] may not permit an individual to have
2675 direct access to a child or a vulnerable adult without being directly supervised unless:

2676 [~~(i) the individual is associated with the licensee or department contractor and the~~
2677 ~~department conducts a background screening in accordance with this section;~~]

2678 [~~(ii)~~] (i) the individual is the parent or guardian of the child, or the guardian of the
2679 vulnerable adult;

2680 [~~(iii)~~] (ii) the individual is approved by the parent or guardian of the child, or the
2681 guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

2682 [~~(iv)~~] (iii) the individual is only permitted to have direct access to a vulnerable adult
2683 who voluntarily invites the individual to visit; or

2684 [~~(v)~~] (iv) the individual only provides incidental care for a foster child on behalf of a
2685 foster parent who has used reasonable and prudent judgment to select the individual to provide
2686 the incidental care for the foster child.

2687 [~~(b)~~] (c) Notwithstanding any other provision of this section, an [~~individual for whom~~
2688 ~~the office denies an application may not~~] applicant who is denied direct access qualified status
2689 shall not have direct access to a child or vulnerable adult unless the office [approves a
2690 subsequent application by the individual] grants direct access qualified status to the applicant
2691 through a subsequent application in accordance with this section.

2692 ~~[(11) (a) Within 30 days after the day on which the applicant submits the information~~
2693 ~~described in Subsection (2), the office shall notify the applicant of any potentially disqualifying~~
2694 ~~criminal findings or non-criminal findings.]~~

2695 ~~[(b) If the notice under Subsection (11)(a) states that the applicant's application is~~
2696 ~~denied, the notice shall further advise the applicant that the applicant may, under Subsection~~
2697 ~~26B-2-111(2), request a hearing in the department's Office of Administrative Hearings, to~~
2698 ~~challenge the office's decision.]~~

2699 ~~[(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
2700 ~~the office shall make rules, consistent with this part:]~~

2701 ~~[(i) defining procedures for the challenge of the office's background check decision~~
2702 ~~described in Subsection (11)(b); and]~~

2703 ~~[(ii) expediting the process for renewal of a license under the requirements of this~~
2704 ~~section and other applicable sections.]~~

2705 (11) If the office denies direct access qualified status to an applicant, the applicant may
2706 request a hearing in the department's Office of Administrative Hearings to challenge the
2707 office's decision.

2708 ~~[(12) (a) An individual or a department contractor who provides services in an adults~~
2709 ~~only substance use disorder program, as defined by rule made in accordance with Title 63G,~~
2710 ~~Chapter 3, Utah Administrative Rulemaking Act, is exempt from this section]~~

2711 (12) (a) This Subsection (12) applies to an applicant associated with a certification,
2712 contract, or licensee serving adults only.

2713 ~~[(b) The exemption described in Subsection (12)(a) does not extend to a program~~
2714 ~~director or a member, as defined by Section 26B-2-105, of the program]~~

2715 (b) A program director or a member, as defined in Section 26B-2-105, of the licensee
2716 shall comply with this section.

2717 (c) The office shall conduct a comprehensive review for an applicant if:

2718 (i) seeking a position:

2719 (A) as a peer support provider;

2720 (B) mental health professional; or

2721 (C) in a program that serves only adults with a primary mental health diagnosis, with or
2722 without a co-occurring substance use disorder; and

2723 (ii) within three years from the date on which the office conducts the background
2724 check, the applicant has a felony or misdemeanor charge or conviction or a non-criminal
2725 finding.

2726 [~~(13) (a) Except as provided in Subsection (13)(b), in addition to the other~~
2727 ~~requirements of this section, if the background check of an applicant is being conducted for the~~
2728 ~~purpose of giving clearance status to an applicant seeking a position in a congregate care~~
2729 ~~program or an applicant seeking to become a prospective foster or adoptive parent, the office~~
2730 ~~shall:]~~

2731 (13) (a) This Subsection (13) applies to an applicant seeking a position in a congregate
2732 care program, an applicant seeking to provide a prospective foster home, an applicant seeking
2733 to provide a prospective adoptive home, and each adult living in the home of the prospective
2734 foster or prospective adoptive home.

2735 (b) As federally required, the office shall:

2736 (i) check the child abuse and neglect registry in each state where each applicant resided
2737 in the five years immediately preceding the day on which the applicant applied to be a foster or
2738 adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the
2739 registry as having a substantiated or supported finding of child abuse or neglect; and

2740 (ii) except for applicants seeking a position in a congregate care program, check the
2741 child abuse and neglect registry in each state where each adult living in the home of the
2742 [applicant described in Subsection (13)(a)(i)] prospective foster or adoptive home resided in
2743 the five years immediately preceding the day on which the applicant applied to be a foster or
2744 adoptive parent, to determine whether the adult is listed in the registry as having a substantiated
2745 or supported finding of child abuse or neglect.

2746 [~~(b)~~] (c) The requirements described in Subsection [~~(13)(a)~~] (13)(b) do not apply to the
2747 extent that:

2748 (i) federal law or rule permits otherwise; or

2749 (ii) the requirements would prohibit the Division of Child and Family Services or a
2750 court from placing a child with:

2751 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

2752 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or
2753 80-3-303, pending completion of the background check described in [~~Subsection (5)~~]

2754 Subsections (5), (6), and (7).

2755 ~~[(E)]~~ (d) Notwithstanding Subsections (5) through (10), the office shall deny [a
2756 clearance to an applicant seeking a position in a congregate care program or an applicant to
2757 become a prospective foster or adoptive parent if the applicant has been convicted of] direct
2758 access qualified status if the applicant has been convicted of:

2759 (i) a felony involving conduct that constitutes any of the following:

2760 (A) child abuse, as described in Sections [76-5-109](#), [76-5-109.2](#), and [76-5-109.3](#);

2761 (B) commission of domestic violence in the presence of a child, as described in Section

2762 [76-5-114](#);

2763 (C) abuse or neglect of a child with a disability, as described in Section [76-5-110](#);

2764 (D) intentional aggravated abuse of a vulnerable adult, as described in Section

2765 [76-5-111](#);

2766 ~~[(D)]~~ (E) endangerment of a child or vulnerable adult, as described in Section

2767 [76-5-112.5](#);

2768 ~~[(E)]~~ (F) aggravated murder, as described in Section [76-5-202](#);

2769 ~~[(F)]~~ (G) murder, as described in Section [76-5-203](#);

2770 ~~[(G)]~~ (H) manslaughter, as described in Section [76-5-205](#);

2771 ~~[(H)]~~ (I) child abuse homicide, as described in Section [76-5-208](#);

2772 ~~[(I)]~~ (J) homicide by assault, as described in Section [76-5-209](#);

2773 ~~[(J)]~~ (K) kidnapping, as described in Section [76-5-301](#);

2774 ~~[(K)]~~ (L) child kidnapping, as described in Section [76-5-301.1](#);

2775 ~~[(L)]~~ (M) aggravated kidnapping, as described in Section [76-5-302](#);

2776 ~~[(M)]~~ (N) human trafficking of a child, as described in Section [76-5-308.5](#);

2777 ~~[(N)]~~ (O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

2778 ~~[(O)]~~ (P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual
2779 Exploitation Act;

2780 ~~[(P)]~~ (Q) aggravated exploitation of a minor, as described in Section [76-5b-201.1](#);

2781 ~~[(Q)]~~ (R) aggravated arson, as described in Section [76-6-103](#);

2782 ~~[(R)]~~ (S) aggravated burglary, as described in Section [76-6-203](#);

2783 ~~[(S)]~~ (T) aggravated robbery, as described in Section [76-6-302](#);

2784 ~~[(T)]~~ (U) lewdness involving a child, as described in Section [76-9-702.5](#);

2785 ~~[(U)]~~ (V) incest, as described in Section [76-7-102](#); or

2786 ~~[(V)]~~ (W) domestic violence, as described in Section [77-36-1](#); or

2787 (ii) an offense committed outside the state that, if committed in the state, would

2788 constitute a violation of an offense described in Subsection ~~[(13)(c)(i)]~~ [\(13\)\(d\)\(i\)](#).

2789 ~~[(d)]~~ (e) Notwithstanding Subsections (5) through (10), the office shall deny ~~[a license~~

2790 ~~or license renewal to an individual seeking a position in a congregate care program or a~~

2791 ~~prospective foster or adoptive parent if, within the five years immediately preceding the day on~~

2792 ~~which the individual's application or license would otherwise be approved, the individual]~~

2793 direct access qualified status to an applicant if, within the five years from the date on which the

2794 office conducts the background check, the applicant was convicted of a felony involving

2795 conduct that constitutes a violation of any of the following:

2796 (i) aggravated assault, as described in Section [76-5-103](#);

2797 (ii) aggravated assault by a prisoner, as described in Section [76-5-103.5](#);

2798 (iii) mayhem, as described in Section [76-5-105](#);

2799 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

2800 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

2801 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances

2802 Act;

2803 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance

2804 Precursor Act; or

2805 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

2806 ~~[(e)]~~ (f) In addition to the circumstances described in Subsection (6), the office shall

2807 conduct ~~[the]~~ a comprehensive review of an applicant's background check under this section if

2808 ~~[the registry check described in Subsection (13)(a) indicates that the individual is listed in a~~

2809 ~~child abuse and neglect registry of another state as having a substantiated or supported finding~~

2810 ~~of a severe type of child abuse or neglect as defined in Section [80-1-102](#).]~~ the applicant:

2811 (i) has an offense described in Subsection (5)(a), has an infraction conviction entered

2812 on a date that is no more than three years before the date on which the office conducts the

2813 background check;

2814 (ii) has a listing in the Division of Child and Family Services' Licensing Information

2815 System described in Section [80-2-1002](#);

2816 (iii) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect,
2817 or exploitation database described in Section 26B-6-210;

2818 (iv) has a substantiated finding of severe child abuse or neglect under Section 80-3-404
2819 or 80-3-504; or

2820 (v) has a listing on the registry check described in Subsection (13)(b) as having a
2821 substantiated or supported finding of a severe type of child abuse or neglect, as defined in
2822 Section 80-1-102.

2823 ~~[(14)]~~ (g) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
2824 Act, the office may make rules, consistent with this part, to:

2825 ~~[(a)]~~ (i) establish procedures for, and information to be examined in, the
2826 comprehensive review described in Subsections ~~[(6) and (7)]~~ (6), (7), and (13); and

2827 ~~[(b)]~~ (ii) determine whether to consider an offense or incident that occurred while an
2828 individual was in the custody of the Division of Child and Family Services or the ~~[Division of~~
2829 ~~Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services for purposes of
2830 ~~[approval or denial of an application for a prospective foster or adoptive parent]~~ granting or
2831 denying direct access qualified status to an applicant.

2832 Section 26. Section **26B-2-122** is amended to read:

2833 **26B-2-122. Access to vulnerable adult abuse and neglect information.**

2834 (1) For purposes of this section:

2835 (a) "Direct service worker" means the same as that term is defined in Section
2836 26B-6-401.

2837 (b) "Personal care attendant" means the same as that term is defined in Section
2838 26B-6-401.

2839 (2) With respect to a licensee, a direct service worker, or a personal care attendant, the
2840 department may access the database created by Section 26B-6-210 for the purpose of:

2841 (a) (i) determining whether a person associated with a licensee, with direct access to
2842 vulnerable adults, has a supported or substantiated finding of:

2843 (A) abuse;

2844 (B) neglect; or

2845 (C) exploitation; and

2846 (ii) informing a licensee that a person associated with the licensee has a supported or

2847 substantiated finding of:

2848 (A) abuse;

2849 (B) neglect; or

2850 (C) exploitation;

2851 (b) (i) determining whether a direct service worker has a supported or substantiated
2852 finding of:

2853 (A) abuse;

2854 (B) neglect; or

2855 (C) exploitation; and

2856 (ii) informing a direct service worker or the direct service worker's employer that the
2857 direct service worker has a supported or substantiated finding of:

2858 (A) abuse;

2859 (B) neglect; or

2860 (C) exploitation; or

2861 (c) (i) determining whether a personal care attendant has a supported or substantiated
2862 finding of:

2863 (A) abuse;

2864 (B) neglect; or

2865 (C) exploitation; and

2866 (ii) informing a person described in Subsections [26B-6-401\(9\)\(a\)\(i\)](#) through (iv) that a
2867 personal care attendant has a supported or substantiated finding of:

2868 (A) abuse;

2869 (B) neglect; or

2870 (C) exploitation.

2871 (3) The department shall receive and process personal identifying information under
2872 Subsection [~~[26B-2-120\(1\)](#)~~] [26B-2-120\(2\)](#) for the purposes described in Subsection (2).

2873 (4) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative
2874 Rulemaking Act, consistent with this part and Chapter 6, Part 2, Abuse, Neglect, or
2875 Exploitation of a Vulnerable Adult, defining the circumstances under which a person may have
2876 direct access or provide services to vulnerable adults when the person is listed in the statewide
2877 database of the Division of Aging and Adult Services created by Section [26B-6-210](#) as having

2878 a supported or substantiated finding of abuse, neglect, or exploitation.

2879 Section 27. Section **26B-2-128** is amended to read:

2880 **26B-2-128. Numerical limit of foster children in a foster home.**

2881 [~~(1) Except as provided in Subsection (2) or (3), no more than:~~]

2882 [~~(a) four foster children may reside in the foster home of a licensed foster parent; or]~~

2883 [~~(b) three foster children may reside in the foster home of a certified foster parent.]~~

2884 (1) (a) No more than four foster children may reside in the foster home of a licensed
2885 foster parent.

2886 (b) No more than three foster children may reside in the foster home of a certified
2887 foster parent.

2888 [~~(2) When placing a sibling group into a foster home, the limits in Subsection (1) may~~
2889 ~~be exceeded if:]~~

2890 [~~(a) no other foster children reside in the foster home;]~~

2891 [~~(b) only one other foster child resides in the foster home at the time of a sibling~~
2892 ~~group's placement into the foster home; or]~~

2893 [~~(c) a sibling group re-enters foster care and is placed into the foster home where the~~
2894 ~~sibling group previously resided.]~~

2895 [~~(3)~~] (2) When placing a child into a foster home, the limits [in] under Subsection (1)
2896 may be exceeded:

2897 (a) to place a child into a foster home where a sibling of the child currently resides; or

2898 (b) to place a child in a foster home where the child previously resided.

2899 (3) The limits under Subsection (1) may be exceeded for:

2900 (a) placement of a sibling group in a foster home with no more than one other foster
2901 child placement;

2902 (b) placement of a child or sibling group in a foster home where the child or sibling
2903 group previously resided; or

2904 (c) placement of a child in a foster home where a sibling currently resides.

2905 Section 28. Section **26B-2-201** is amended to read:

2906 **26B-2-201. Definitions.**

2907 As used in this part:

2908 (1) (a) "Abortion clinic" means a type I abortion clinic or a type II abortion clinic.

2909 (b) "Abortion clinic" does not mean a clinic that meets the definition of hospital under
2910 Section [76-7-301](#) or Section ~~[76-71-101]~~ [76-7a-101](#).

2911 (2) "Activities of daily living" means essential activities including:

2912 (a) dressing;

2913 (b) eating;

2914 (c) grooming;

2915 (d) bathing;

2916 (e) toileting;

2917 (f) ambulation;

2918 (g) transferring; and

2919 (h) self-administration of medication.

2920 (3) "Ambulatory surgical facility" means a freestanding facility, which provides
2921 surgical services to patients not requiring hospitalization.

2922 (4) "Assistance with activities of daily living" means providing of or arranging for the
2923 provision of assistance with activities of daily living.

2924 (5) (a) "Assisted living facility" means:

2925 (i) a type I assisted living facility, which is a residential facility that provides assistance
2926 with activities of daily living and social care to two or more residents who:

2927 (A) require protected living arrangements; and

2928 (B) are capable of achieving mobility sufficient to exit the facility without the
2929 assistance of another person; and

2930 (ii) a type II assisted living facility, which is a residential facility with a home-like
2931 setting that provides an array of coordinated supportive personal and health care services
2932 available 24 hours per day to residents who have been assessed under department rule to need
2933 any of these services.

2934 (b) Each resident in a type I or type II assisted living facility shall have a service plan
2935 based on the assessment, which may include:

2936 (i) specified services of intermittent nursing care;

2937 (ii) administration of medication; and

2938 (iii) support services promoting residents' independence and self-sufficiency.

2939 (6) "Birthing center" means a facility that:

2940 (a) receives maternal clients and provides care during pregnancy, delivery, and
2941 immediately after delivery; and

2942 (b) (i) is freestanding; or

2943 (ii) is not freestanding, but meets the requirements for an alongside midwifery unit
2944 described in Subsection [26B-2-228\(7\)](#).

2945 (7) "Committee" means the Health Facility Committee created in Section [26B-1-204](#).

2946 (8) "Consumer" means any person not primarily engaged in the provision of health care
2947 to individuals or in the administration of facilities or institutions in which such care is provided
2948 and who does not hold a fiduciary position, or have a fiduciary interest in any entity involved in
2949 the provision of health care, and does not receive, either directly or through his spouse, more
2950 than 1/10 of his gross income from any entity or activity relating to health care.

2951 (9) "End stage renal disease facility" means a facility which furnishes staff-assisted
2952 kidney dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.

2953 (10) "Freestanding" means existing independently or physically separated from another
2954 health care facility by fire walls and doors and administrated by separate staff with separate
2955 records.

2956 (11) "General acute hospital" means a facility which provides diagnostic, therapeutic,
2957 and rehabilitative services to both inpatients and outpatients by or under the supervision of
2958 physicians.

2959 (12) "Governmental unit" means the state, or any county, municipality, or other
2960 political subdivision or any department, division, board, or agency of the state, a county,
2961 municipality, or other political subdivision.

2962 (13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home
2963 health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing
2964 centers, ambulatory surgical facilities, small health care facilities, abortion clinics, a clinic that
2965 meets the definition of hospital under Section [76-7-301](#) or ~~[\[76-71-201\]](#)~~ [76-7a-101](#), facilities
2966 owned or operated by health maintenance organizations, end stage renal disease facilities, and
2967 any other health care facility which the committee designates by rule.

2968 (b) "Health care facility" does not include the offices of private physicians or dentists,
2969 whether for individual or group practice, except that it does include an abortion clinic.

2970 (14) "Health maintenance organization" means an organization, organized under the

2971 laws of any state which:

2972 (a) is a qualified health maintenance organization under 42 U.S.C. Sec. 300e-9; or

2973 (b) (i) provides or otherwise makes available to enrolled participants at least the
2974 following basic health care services: usual physician services, hospitalization, laboratory, x-ray,
2975 emergency, and preventive services and out-of-area coverage;

2976 (ii) is compensated, except for copayments, for the provision of the basic health
2977 services listed in Subsection (14)(b)(i) to enrolled participants by a payment which is paid on a
2978 periodic basis without regard to the date the health services are provided and which is fixed
2979 without regard to the frequency, extent, or kind of health services actually provided; and

2980 (iii) provides physicians' services primarily directly through physicians who are either
2981 employees or partners of such organizations, or through arrangements with individual
2982 physicians or one or more groups of physicians organized on a group practice or individual
2983 practice basis.

2984 (15) (a) "Home health agency" means an agency, organization, or facility or a
2985 subdivision of an agency, organization, or facility which employs two or more direct care staff
2986 persons who provide licensed nursing services, therapeutic services of physical therapy, speech
2987 therapy, occupational therapy, medical social services, or home health aide services on a
2988 visiting basis.

2989 (b) "Home health agency" does not mean an individual who provides services under
2990 the authority of a private license.

2991 (16) "Hospice" means a program of care for the terminally ill and their families which
2992 occurs in a home or in a health care facility and which provides medical, palliative,
2993 psychological, spiritual, and supportive care and treatment.

2994 (17) "Nursing care facility" means a health care facility, other than a general acute or
2995 specialty hospital, constructed, licensed, and operated to provide patient living
2996 accommodations, 24-hour staff availability, and at least two of the following patient services:

2997 (a) a selection of patient care services, under the direction and supervision of a
2998 registered nurse, ranging from continuous medical, skilled nursing, psychological, or other
2999 professional therapies to intermittent health-related or paraprofessional personal care services;

3000 (b) a structured, supportive social living environment based on a professionally
3001 designed and supervised treatment plan, oriented to the individual's habilitation or

3002 rehabilitation needs; or

3003 (c) a supervised living environment that provides support, training, or assistance with
3004 individual activities of daily living.

3005 (18) "Person" means any individual, firm, partnership, corporation, company,
3006 association, or joint stock association, and the legal successor thereof.

3007 (19) "Resident" means a person 21 years old or older who:

3008 (a) as a result of physical or mental limitations or age requires or requests services
3009 provided in an assisted living facility; and

3010 (b) does not require intensive medical or nursing services as provided in a hospital or
3011 nursing care facility.

3012 (20) "Small health care facility" means a four to 16 bed facility that provides licensed
3013 health care programs and services to residents.

3014 (21) "Specialty hospital" means a facility which provides specialized diagnostic,
3015 therapeutic, or rehabilitative services in the recognized specialty or specialties for which the
3016 hospital is licensed.

3017 (22) "Substantial compliance" means in a department survey of a licensee, the
3018 department determines there is an absence of deficiencies which would harm the physical
3019 health, mental health, safety, or welfare of patients or residents of a licensee.

3020 (23) "Type I abortion clinic" means a facility, including a physician's office, but not
3021 including a general acute or specialty hospital, that:

3022 (a) performs abortions, as defined in Section 76-7-301, during the first trimester of
3023 pregnancy; and

3024 (b) does not perform abortions, as defined in Section 76-7-301, after the first trimester
3025 of pregnancy.

3026 (24) "Type II abortion clinic" means a facility, including a physician's office, but not
3027 including a general acute or specialty hospital, that:

3028 (a) performs abortions, as defined in Section 76-7-301, after the first trimester of
3029 pregnancy; or

3030 (b) performs abortions, as defined in Section 76-7-301, during the first trimester of
3031 pregnancy and after the first trimester of pregnancy.

3032 Section 29. Section 26B-2-202 is amended to read:

3033 **26B-2-202. Duties of department.**

3034 (1) The department shall:

3035 (a) enforce rules established pursuant to this part;

3036 (b) authorize an agent of the department to conduct inspections of health care facilities

3037 pursuant to this part;

3038 (c) collect information authorized by the committee that may be necessary to ensure

3039 that adequate health care facilities are available to the public;

3040 (d) collect and credit fees for licenses as free revenue;

3041 (e) collect and credit fees for conducting plan reviews as dedicated credits;

3042 (f) (i) collect and credit fees for conducting [~~clearance~~] certification for direct patient

3043 access under Sections 26B-2-239 and 26B-2-240; and

3044 (ii) beginning July 1, 2012:

3045 (A) up to \$105,000 of the fees collected under Subsection (1)(f)(i) are dedicated

3046 credits; and

3047 (B) the fees collected for background checks under Subsection 26B-2-240(6) and

3048 Subsection 26B-2-241(4) shall be transferred to the Department of Public Safety to reimburse

3049 the Department of Public Safety for its costs in conducting the federal background checks;

3050 (g) designate an executive secretary from within the department to assist the committee

3051 in carrying out its powers and responsibilities;

3052 (h) establish reasonable standards for criminal background checks by public and

3053 private entities;

3054 (i) recognize those public and private entities that meet the standards established

3055 pursuant to Subsection (1)(h); and

3056 (j) provide necessary administrative and staff support to the committee.

3057 (2) The department may:

3058 (a) exercise all incidental powers necessary to carry out the purposes of this part;

3059 (b) review architectural plans and specifications of proposed health care facilities or

3060 renovations of health care facilities to ensure that the plans and specifications conform to rules

3061 established by the committee; and

3062 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

3063 make rules as necessary to implement the provisions of this part.

3064 Section 30. Section **26B-2-204** is amended to read:

3065 **26B-2-204. Licensing of an abortion clinic -- Rulemaking authority -- Fee --**

3066 **Licensing of a clinic meeting the definition of hospital.**

3067 (1) (a) No abortion clinic may operate in the state on or after January 1, 2024, or the
3068 last valid date of an abortion clinic license issued under the requirements of this section,
3069 whichever date is later.

3070 (b) Notwithstanding Subsection (1)(a), a licensed abortion clinic may not perform an
3071 abortion in violation of any provision of state law.

3072 (2) The state may not issue a license for an abortion clinic after May 2, 2023.

3073 (3) For any license for an abortion clinic that is issued under this section:

3074 (a) A type I abortion clinic may not operate in the state without a license issued by the
3075 department to operate a type I abortion clinic.

3076 (b) A type II abortion clinic may not operate in the state without a license issued by the
3077 department to operate a type II abortion clinic.

3078 (c) The department shall make rules establishing minimum health, safety, sanitary, and
3079 recordkeeping requirements for:

3080 (i) a type I abortion clinic; and

3081 (ii) a type II abortion clinic.

3082 (d) To receive and maintain a license described in this section, an abortion clinic shall:

3083 (i) apply for a license on a form prescribed by the department;

3084 (ii) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping
3085 requirements established ~~under~~ under Subsection (3) that relate to the type of abortion clinic
3086 licensed;

3087 (iii) comply with the recordkeeping and reporting requirements of Section [76-7-313](#);

3088 (iv) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion, and Title
3089 76, Chapter 7a, Abortion Prohibition;

3090 (v) pay the annual licensing fee; and

3091 (vi) cooperate with inspections conducted by the department.

3092 (e) The department shall, at least twice per year, inspect each abortion clinic in the state
3093 to ensure that the abortion clinic is complying with all statutory and licensing requirements
3094 relating to the abortion clinic. At least one of the inspections shall be made without providing

3095 notice to the abortion clinic.

3096 (f) The department shall charge an annual license fee, set by the department in
3097 accordance with the procedures described in Section 63J-1-504, to an abortion clinic in an
3098 amount that will pay for the cost of the licensing requirements described in this section and the
3099 cost of inspecting abortion clinics.

3100 (g) The department shall deposit the licensing fees described in this section in the
3101 General Fund as a dedicated credit to be used solely to pay for the cost of the licensing
3102 requirements described in this section and the cost of inspecting abortion clinics.

3103 (4) (a) Notwithstanding any other provision of this section, the department may license
3104 a clinic that meets the definition of hospital under Section 76-7-301 or Section 76-7a-101.

3105 (b) A clinic described in Subsection (4)(a) is not defined as an abortion clinic.
3106 Section 31. Section 26B-2-238 is amended to read:

3107 **26B-2-238. Definitions for Sections 26B-2-238 through 26B-2-241.**

3108 As used in this section and Sections 26B-2-239, 26B-2-240, and 26B-2-241:

3109 (1) [~~"Clearance"~~] "Certification for direct patient access" means approval by the
3110 department under Section 26B-2-239 for an individual to have direct patient access.

3111 (2) "Covered body" means a covered provider, covered contractor, or covered
3112 employer.

3113 (3) "Covered contractor" means a person that supplies covered individuals, by contract,
3114 to a covered employer or covered provider.

3115 (4) "Covered employer" means an individual who:

3116 (a) engages a covered individual to provide services in a private residence to:

3117 (i) an aged individual, as defined by department rule; or

3118 (ii) a disabled individual, as defined by department rule;

3119 (b) is not a covered provider; and

3120 (c) is not a licensed health care facility within the state.

3121 (5) "Covered individual":

3122 (a) means an individual:

3123 (i) whom a covered body engages; and

3124 (ii) who may have direct patient access;

3125 (b) includes:

- 3126 (i) a nursing assistant, as defined by department rule;
- 3127 (ii) a personal care aide, as defined by department rule;
- 3128 (iii) an individual licensed to engage in the practice of nursing under Title 58, Chapter
- 3129 31b, Nurse Practice Act;
- 3130 (iv) a provider of medical, therapeutic, or social services, including a provider of
- 3131 laboratory and radiology services;
- 3132 (v) an executive;
- 3133 (vi) administrative staff, including a manager or other administrator;
- 3134 (vii) dietary and food service staff;
- 3135 (viii) housekeeping and maintenance staff; and
- 3136 (ix) any other individual, as defined by department rule, who has direct patient access;
- 3137 and
- 3138 (c) does not include a student, as defined by department rule, directly supervised by a
- 3139 member of the staff of the covered body or the student's instructor.
- 3140 (6) "Covered provider" means:
- 3141 (a) an end stage renal disease facility;
- 3142 (b) a long-term care hospital;
- 3143 (c) a nursing care facility;
- 3144 (d) a small health care facility;
- 3145 (e) an assisted living facility;
- 3146 (f) a hospice;
- 3147 (g) a home health agency; or
- 3148 (h) a personal care agency.
- 3149 (7) "Direct patient access" means for an individual to be in a position where the
- 3150 individual could, in relation to a patient or resident of the covered body who engages the
- 3151 individual:
- 3152 (a) cause physical or mental harm;
- 3153 (b) commit theft; or
- 3154 (c) view medical or financial records.
- 3155 (8) "Engage" means to obtain one's services:
- 3156 (a) by employment;

- 3157 (b) by contract;
- 3158 (c) as a volunteer; or
- 3159 (d) by other arrangement.
- 3160 (9) "Long-term care hospital":
- 3161 (a) means a hospital that is certified to provide long-term care services under the
- 3162 provisions of 42 U.S.C. Sec. 1395tt; and
- 3163 (b) does not include a critical access hospital, designated under 42 U.S.C. Sec.
- 3164 1395i-4(c)(2).
- 3165 (10) "Patient" means an individual who receives health care services from one of the
- 3166 following covered providers:
- 3167 (a) an end stage renal disease facility;
- 3168 (b) a long-term care hospital;
- 3169 (c) a hospice;
- 3170 (d) a home health agency; or
- 3171 (e) a personal care agency.
- 3172 (11) "Personal care agency" means a health care facility defined by department rule.
- 3173 (12) "Resident" means an individual who receives health care services from one of the
- 3174 following covered providers:
- 3175 (a) a nursing care facility;
- 3176 (b) a small health care facility;
- 3177 (c) an assisted living facility; or
- 3178 (d) a hospice that provides living quarters as part of its services.
- 3179 (13) "Residential setting" means a place provided by a covered provider:
- 3180 (a) for residents to live as part of the services provided by the covered provider; and
- 3181 (b) where an individual who is not a resident also lives.
- 3182 (14) "Volunteer" means an individual, as defined by department rule, who provides
- 3183 services without pay or other compensation.
- 3184 Section 32. Section **26B-2-239** is amended to read:
- 3185 **26B-2-239. Certification for direct patient access required -- Application by**
- 3186 **covered providers, covered contractors, and individuals.**
- 3187 (1) The definitions in Section **26B-2-238** apply to this section.

3188 (2) (a) A covered provider may engage a covered individual only if the individual has
3189 ~~[clearance]~~ certification for direct patient access.

3190 (b) A covered contractor may supply a covered individual to a covered employer or
3191 covered provider only if the individual has ~~[clearance]~~ certification for direct patient access.

3192 (c) A covered employer may engage a covered individual who does not have
3193 ~~[clearance]~~ certification for direct patient access.

3194 (3) (a) Notwithstanding Subsections (2)(a) and (b), if a covered individual does not
3195 have ~~[clearance]~~ certification for direct patient access, a covered provider may engage the
3196 individual or a covered contractor may supply the individual to a covered provider or covered
3197 employer:

3198 (i) under circumstances specified by department rule; and

3199 (ii) only while an application for ~~[clearance]~~ certification for direct patient access for
3200 the individual is pending.

3201 (b) For purposes of Subsection (3)(a), an application is pending if the following have
3202 been submitted to the department for the individual:

3203 (i) an application for ~~[clearance]~~ certification for direct patient access;

3204 (ii) the personal identification information specified by the department under
3205 Subsection [26B-2-240\(4\)\(b\)](#); and

3206 (iii) any fees established by the department under Subsection [26B-2-240\(9\)](#).

3207 (4) (a) As provided in Subsection (4)(b), each covered provider and covered contractor
3208 operating in this state shall:

3209 (i) collect from each covered individual the contractor engages, and each individual the
3210 contractor intends to engage as a covered individual, the personal identification information
3211 specified by the department under Subsection [26B-2-240\(4\)\(b\)](#); and

3212 (ii) submit to the department an application for ~~[clearance]~~ certification for direct
3213 patient access for the individual, including:

3214 (A) the personal identification information; and

3215 (B) any fees established by the department under Subsection [26B-2-240\(9\)](#).

3216 (b) ~~[Clearance]~~ Certification for direct patient access granted for an individual pursuant
3217 to an application submitted by a covered provider or a covered contractor is valid ~~[until the~~
3218 ~~later of:]~~ for 180 days after the date on which the engaged employment lapses.

- 3219 (i) two years after the individual is no longer engaged as a covered individual; or
 3220 (ii) the covered provider's or covered contractor's next license renewal date.
- 3221 (5) (a) A covered provider that provides services in a residential setting shall:
 3222 (i) collect the personal identification information specified by the department under
 3223 Subsection [26B-2-240\(4\)\(b\)](#) for each individual 12 years old or older, other than a resident,
 3224 who resides in the residential setting; and
 3225 (ii) submit to the department an application for [~~clearance~~] certification for direct
 3226 patient access for the individual, including:
 3227 (A) the personal identification information; and
 3228 (B) any fees established by the department under Subsection [26B-2-240\(9\)](#).
- 3229 (b) A covered provider that provides services in a residential setting may allow an
 3230 individual 12 years old or older, other than a resident, to reside in the residential setting only if
 3231 the individual has [~~clearance~~] certification for direct patient access.
- 3232 (6) (a) An individual may apply for [~~clearance~~] certification for direct patient access by
 3233 submitting to the department an application, including:
 3234 (i) the personal identification information specified by the department under
 3235 Subsection [26B-2-240\(4\)\(b\)](#); and
 3236 (ii) any fees established by the department under Subsection [26B-2-240\(9\)](#).
- 3237 (b) [~~Clearance~~] Certification for direct patient access granted to an individual who
 3238 makes application under Subsection (6)(a) is valid for [~~two years~~] 180 days after the date the
 3239 engaged employment lapses unless the department determines otherwise based on the
 3240 department's ongoing review under Subsection [26B-2-240\(4\)\(a\)](#).
- 3241 Section 33. Section **26B-2-240** is amended to read:
 3242 **26B-2-240. Department authorized to grant, deny, or revoke certification for**
 3243 **direct patient access -- Department may limit direct patient access -- Certification for**
 3244 **direct patient access.**
- 3245 (1) The definitions in Section [26B-2-238](#) apply to this section.
 3246 (2) (a) As provided in this section, the department may grant, deny, or revoke
 3247 [~~clearance~~] certification for direct patient access for an individual, including a covered
 3248 individual.
 3249 (b) The department may limit the circumstances under which a covered individual

3250 granted [~~clearance~~] certification for direct patient access may have direct patient access, based
3251 on the relationship factors under Subsection (4) and other mitigating factors related to patient
3252 and resident protection.

3253 (c) The department shall determine whether to grant [~~clearance~~] certification for direct
3254 patient access for each applicant for whom it receives:

3255 (i) the personal identification information specified by the department under
3256 Subsection (4)(b); and

3257 (ii) any fees established by the department under Subsection (9).

3258 (d) The department shall establish a procedure for obtaining and evaluating relevant
3259 information concerning covered individuals, including fingerprinting the applicant and
3260 submitting the prints to the Criminal Investigations and Technical Services Division of the
3261 Department of Public Safety for checking against applicable state, regional, and national
3262 criminal records files.

3263 (3) The department may review the following sources to determine whether an
3264 individual should be granted or retain [~~clearance~~] certification for direct patient access, which
3265 may include:

3266 (a) Department of Public Safety arrest, conviction, and disposition records described in
3267 Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including
3268 information in state, regional, and national records files;

3269 (b) juvenile court arrest, adjudication, and disposition records, as allowed under
3270 Section [78A-6-209](#);

3271 (c) federal criminal background databases available to the state;

3272 (d) the Division of Child and Family Services Licensing Information System described
3273 in Section [80-2-1002](#);

3274 (e) child abuse or neglect findings described in Section [80-3-404](#);

3275 (f) the Division of Aging and Adult Services vulnerable adult abuse, neglect, or
3276 exploitation database described in Section [26B-6-210](#);

3277 (g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;

3278 (h) licensing and certification records of individuals licensed or certified by the
3279 Division of Professional Licensing under Title 58, Occupations and Professions; and

3280 (i) the List of Excluded Individuals and Entities database maintained by the United

- 3281 States Department of Health and Human Services' Office of Inspector General.
- 3282 (4) The department shall adopt rules that:
- 3283 (a) specify the criteria the department will use to determine whether an individual is
- 3284 granted or retains [~~clearance~~] certification for direct patient access:
- 3285 (i) based on an initial evaluation and ongoing review of information under Subsection
- 3286 (3); and
- 3287 (ii) including consideration of the relationship the following may have to patient and
- 3288 resident protection:
- 3289 (A) warrants for arrest;
- 3290 (B) arrests;
- 3291 (C) convictions, including pleas in abeyance;
- 3292 (D) pending diversion agreements;
- 3293 (E) adjudications by a juvenile court under Section 80-6-701 if the individual is over
- 3294 28 years old and has been convicted, has pleaded no contest, or is subject to a plea in abeyance
- 3295 or diversion agreement for a felony or misdemeanor, or the individual is under 28 years old;
- 3296 and
- 3297 (F) any other findings under Subsection (3); and
- 3298 (b) specify the personal identification information that must be submitted by an
- 3299 individual or covered body with an application for [~~clearance~~] certification for direct patient
- 3300 access, including:
- 3301 (i) the applicant's Social Security number; and
- 3302 (ii) fingerprints.
- 3303 (5) For purposes of Subsection (4)(a), the department shall classify a crime committed
- 3304 in another state according to the closest matching crime under Utah law, regardless of how the
- 3305 crime is classified in the state where the crime was committed.
- 3306 (6) The Department of Public Safety, the Administrative Office of the Courts, the
- 3307 Division of Professional Licensing, and any other state agency or political subdivision of the
- 3308 state:
- 3309 (a) shall allow the department to review the information the department may review
- 3310 under Subsection (3); and
- 3311 (b) except for the Department of Public Safety, may not charge the department for

3312 access to the information.

3313 (7) The department shall adopt measures to protect the security of the information it
3314 reviews under Subsection (3) and strictly limit access to the information to department
3315 employees responsible for processing an application for [clearance] certification for direct
3316 patient access.

3317 (8) The department may disclose personal identification information specified under
3318 Subsection (4)(b) to other divisions and offices within the department to verify that the subject
3319 of the information is not identified as a perpetrator or offender in the information sources
3320 described in Subsections (3)(d) through (f).

3321 (9) The department may establish fees, in accordance with Section 63J-1-504, for an
3322 application for [clearance] certification for direct patient access, which may include:

- 3323 (a) the cost of obtaining and reviewing information under Subsection (3);
- 3324 (b) a portion of the cost of creating and maintaining the Direct Access Clearance
3325 System database under Section 26B-2-241; and
- 3326 (c) other department costs related to the processing of the application and the ongoing
3327 review of information pursuant to Subsection (4)(a) to determine whether [clearance]
3328 certification for direct patient access should be retained.

3329 Section 34. Section 26B-2-241 (Superseded 07/01/24) is amended to read:

3330 **26B-2-241 (Superseded 07/01/24). Direct Access Clearance System database --**
3331 **Contents and use -- Department of Public Safety retention of information and notification**
3332 **-- No civil liability for providing information.**

3333 (1) The definitions in Section 26B-2-238 apply to this section.

3334 (2) The department shall create and maintain a Direct Access Clearance System
3335 database, which:

- 3336 (a) includes the names of individuals for whom the department has received[;]
3337 [(i)] an application for [clearance] certification for direct patient access under this part;
3338 [or]

3339 [(ii) ~~an application for background clearance under Section 26B-4-124;~~] and

3340 (b) indicates whether an application is pending and whether [clearance] certification
3341 for direct patient access has been granted and retained for[;-(i)] an applicant under this part[;
3342 ~~and~~].

3343 [~~(ii) an applicant for background clearance under Section 26B-4-124.~~]

3344 (3) (a) The department shall allow covered providers and covered contractors to access
3345 the database electronically.

3346 (b) Data accessible to a covered provider or covered contractor is limited to the
3347 information under Subsections (2)(a)(i) and (2)(b)(i) for:

3348 (i) covered individuals engaged by the covered provider or covered contractor; and

3349 (ii) individuals:

3350 (A) whom the covered provider or covered contractor could engage as covered
3351 individuals; and

3352 (B) who have provided the covered provider or covered contractor with sufficient
3353 personal identification information to uniquely identify the individual in the database.

3354 (c) (i) The department may establish fees, in accordance with Section 63J-1-504, for
3355 use of the database by a covered contractor.

3356 (ii) The fees may include, in addition to any fees established by the department under
3357 Subsection 26B-2-240(9), an initial set-up fee, an ongoing access fee, and a per-use fee.

3358 (4) The Criminal Investigations and Technical Services Division within the
3359 Department of Public Safety shall:

3360 (a) retain, separate from other division records, personal information, including any
3361 fingerprints, sent to the division by the department pursuant to Subsection 26B-2-240(3)(a);
3362 and

3363 (b) notify the department upon receiving notice that an individual for whom personal
3364 information has been retained is the subject of:

3365 (i) a warrant for arrest;

3366 (ii) an arrest;

3367 (iii) a conviction, including a plea in abeyance; or

3368 (iv) a pending diversion agreement.

3369 (5) A covered body is not civilly liable for submitting to the department information
3370 required under this section, Section 26B-2-239, or Section 26B-2-240, or refusing to employ an
3371 individual who does not have clearance to have direct patient access under Section 26B-2-240.

3372 Section 35. Section 26B-2-241 (Effective 07/01/24) is amended to read:

3373 **26B-2-241 (Effective 07/01/24). Direct Access Clearance System database --**

3374 **Contents and use -- Department of Public Safety retention of information and notification**
3375 **-- No civil liability for providing information.**

3376 (1) The definitions in Section 26B-2-238 apply to this section.

3377 (2) The department shall create and maintain a Direct Access Clearance System
3378 database, which:

3379 (a) includes the names of individuals for whom~~[(i)]~~ the department has received an
3380 application for ~~[clearance]~~ certification for direct patient access under this part; ~~[or]~~ and

3381 ~~[(ii) the Bureau of Emergency Medical Services has received an application for~~
3382 ~~background clearance under Section 53-2d-410; and]~~

3383 (b) indicates whether an application is pending and whether clearance has been granted
3384 and retained for~~[:]~~

3385 ~~[(i)]~~ an applicant under this part~~[-and]~~.

3386 ~~[(ii) an applicant for background clearance under Section 53-2d-410;]~~

3387 (3) (a) The department shall allow covered providers and covered contractors to access
3388 the database electronically.

3389 (b) Data accessible to a covered provider or covered contractor is limited to the
3390 information under Subsections (2)(a)(i) and (2)(b)(i) for:

3391 (i) covered individuals engaged by the covered provider or covered contractor; and

3392 (ii) individuals:

3393 (A) whom the covered provider or covered contractor could engage as covered
3394 individuals; and

3395 (B) who have provided the covered provider or covered contractor with sufficient
3396 personal identification information to uniquely identify the individual in the database.

3397 (c) (i) The department may establish fees, in accordance with Section 63J-1-504, for
3398 use of the database by a covered contractor.

3399 (ii) The fees may include, in addition to any fees established by the department under
3400 Subsection 26B-2-240(9), an initial set-up fee, an ongoing access fee, and a per-use fee.

3401 (4) The Criminal Investigations and Technical Services Division within the
3402 Department of Public Safety shall:

3403 (a) retain, separate from other division records, personal information, including any
3404 fingerprints, sent to the division by the department pursuant to Subsection 26B-2-240(3)(a);

3405 and

3406 (b) notify the department upon receiving notice that an individual for whom personal
3407 information has been retained is the subject of:

3408 (i) a warrant for arrest;

3409 (ii) an arrest;

3410 (iii) a conviction, including a plea in abeyance; or

3411 (iv) a pending diversion agreement.

3412 (5) A covered body is not civilly liable for submitting to the department information
3413 required under this section, Section 26B-2-239, or Section 26B-2-240, or refusing to employ an
3414 individual who does not have [~~clearance~~] certification for direct patient access to have direct
3415 patient access under Section 26B-2-240.

3416 Section 36. Section 26B-3-114 is amended to read:

3417 **26B-3-114. Department standards for eligibility under Medicaid -- Funds for**
3418 **abortions.**

3419 (1) (a) The department may develop standards and administer policies relating to
3420 eligibility under the Medicaid program [~~as long as they are consistent~~] if the standards and
3421 policies comply with Subsection [~~26B-4-704(8)~~] 26B-3-108.

3422 (b) An applicant receiving Medicaid assistance may be limited to particular types of
3423 care or services or to payment of part or all costs of care determined to be medically necessary.

3424 (2) The department may not provide any funds for medical, hospital, or other medical
3425 expenditures or medical services to otherwise eligible persons where the purpose of the
3426 assistance is to perform an abortion, unless the life of the mother would be endangered if an
3427 abortion were not performed.

3428 (3) Any employee of the department who authorizes payment for an abortion contrary
3429 to the provisions of this section is guilty of a class B misdemeanor and subject to forfeiture of
3430 office.

3431 (4) Any person or organization that, under the guise of other medical treatment,
3432 provides an abortion under auspices of the Medicaid program is guilty of a third degree felony
3433 and subject to forfeiture of license to practice medicine or authority to provide medical services
3434 and treatment.

3435 Section 37. Section 26B-3-212 is amended to read:

3436 **26B-3-212. Limited family planning services for low-income individuals.**

3437 (1) As used in this section:

3438 (a) (i) "Family planning services" means family planning services that are provided
3439 under the state Medicaid program, including:

3440 (A) sexual health education and family planning counseling; and

3441 (B) other medical diagnosis, treatment, or preventative care routinely provided as part
3442 of a family planning service visit.

3443 (ii) "Family planning services" do not include an abortion, as that term is defined in
3444 Section [76-7-301](#) or [76-7a-101](#).

3445 (b) "Low-income individual" means an individual who:

3446 (i) has an income level that is equal to or below 185% of the federal poverty level; and

3447 (ii) does not qualify for full coverage under the Medicaid program.

3448 (2) Before January 1, 2024, the division shall apply for a Medicaid waiver or a state
3449 plan amendment with CMS to:

3450 (a) offer a program that provides family planning services to low-income individuals;
3451 and

3452 (b) receive a federal match rate of 90% of state expenditures for family planning
3453 services provided under the waiver or state plan amendment.

3454 Section 38. Section **26B-4-118 (Superseded 07/01/24)** is amended to read:

3455 **26B-4-118 (Superseded 07/01/24). Permits for emergency medical service vehicles**
3456 **and nonemergency secured behavioral health transport vehicles.**

3457 (1) (a) To ensure that emergency medical service vehicles and nonemergency secured
3458 behavioral health transport vehicles are adequately staffed, safe, maintained, properly
3459 equipped, and safely operated, the committee shall establish permit requirements at levels it
3460 considers appropriate in the following categories:

3461 (i) ambulance;

3462 (ii) emergency medical response vehicle; and

3463 (iii) nonemergency secured behavioral health transport vehicle.

3464 (b) The permit requirements under Subsections (1)(a)(i) and (ii) shall include a
3465 requirement that [~~beginning on or after January 31, 2014,~~] every operator of an ambulance or
3466 emergency medical response vehicle annually provide proof of the successful completion of an

3467 emergency vehicle operator's course approved by the department for all ambulances and
3468 emergency medical response vehicle operators.

3469 (2) The department shall, based on the requirements established in Subsection (1),
3470 issue permits to emergency medical service vehicles and nonemergency secured behavioral
3471 health transport vehicles.

3472 Section 39. Section **26B-4-136 (Superseded 07/01/24)** is amended to read:

3473 **26B-4-136 (Superseded 07/01/24). Volunteer Emergency Medical Service**
3474 **Personnel Health Insurance Program -- Creation -- Administration -- Eligibility --**
3475 **Benefits -- Rulemaking -- Advisory board.**

3476 (1) As used in this section:

3477 (a) "Health benefit plan" means the same as that term is defined in Section [31A-1-301](#).

3478 (b) "Local government entity" means a political subdivision that:

3479 (i) is licensed as a ground ambulance provider under Sections [26B-4-150](#) through
3480 [26B-4-170](#); and

3481 (ii) [~~as of January 1, 2022,~~] does not offer health insurance benefits to volunteer
3482 emergency medical service personnel.

3483 (c) "PEHP" means the Public Employees' Benefit and Insurance Program created in
3484 Section [49-20-103](#).

3485 (d) "Political subdivision" means a county, a municipality, a limited purpose
3486 government entity described in Title 17B, Limited Purpose Local Government Entities -
3487 Special Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or
3488 an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation
3489 Act.

3490 (e) "Qualifying association" means an association that represents two or more political
3491 subdivisions in the state.

3492 (2) The Volunteer Emergency Medical Service Personnel Health Insurance Program
3493 shall promote recruitment and retention of volunteer emergency medical service personnel by
3494 making health insurance available to volunteer emergency medical service personnel.

3495 (3) The department shall contract with a qualifying association to create, implement,
3496 and administer the Volunteer Emergency Medical Service Personnel Health Insurance Program
3497 described in this section.

3498 (4) Participation in the program is limited to emergency medical service personnel
3499 who:

3500 (a) are licensed under Section 26B-4-116 and are able to perform all necessary
3501 functions associated with the license;

3502 (b) provide emergency medical services under the direction of a local governmental
3503 entity:

3504 (i) by responding to 20% of calls for emergency medical services in a rolling
3505 twelve-month period;

3506 (ii) within a county of the third, fourth, fifth, or sixth class; and

3507 (iii) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R.
3508 Sec. 553.106;

3509 (c) are not eligible for a health benefit plan through an employer or a spouse's
3510 employer;

3511 (d) are not eligible for medical coverage under a government sponsored healthcare
3512 program; and

3513 (e) reside in the state.

3514 (5) (a) A participant in the program is eligible to participate in PEHP in accordance
3515 with Subsection (5)(b) and Subsection 49-20-201(3).

3516 (b) Benefits available to program participants under PEHP are limited to health
3517 insurance that:

3518 (i) covers the program participant and the program participant's eligible dependents on
3519 a July 1 plan year;

3520 (ii) accepts enrollment during an open enrollment period or for a special enrollment
3521 event, including the initial eligibility of a program participant;

3522 (iii) if the program participant is no longer eligible for benefits, terminates on the last
3523 day of the last month for which the individual is a participant in the Volunteer Emergency
3524 Medical Service Personnel Health Insurance Program; and

3525 (iv) is not subject to continuation rights under state or federal law.

3526 (6) (a) The department may make rules in accordance with Title 63G, Chapter 3, Utah
3527 Administrative Rulemaking Act, to define additional criteria regarding benefit design and
3528 eligibility for the program.

3529 (b) The department shall convene an advisory board:
3530 (i) to advise the department on making rules under Subsection (6)(a); and
3531 (ii) that includes representation from at least the following entities:
3532 (A) the qualifying association that receives the contract under Subsection (3); and
3533 (B) PEHP.
3534 (7) For purposes of this section, the qualifying association that receives the contract
3535 under Subsection (3) shall be considered the public agency for whom the program participant is
3536 volunteering under 29 C.F.R. Sec. 553.101.

3537 Section 40. Section **26B-4-152 (Superseded 07/01/24)** is amended to read:

3538 **26B-4-152 (Superseded 07/01/24). Establishment of maximum rates.**

3539 (1) The department shall, after receiving recommendations under Subsection (2),
3540 establish maximum rates for ground ambulance providers and paramedic providers that are just
3541 and reasonable.

3542 (2) The committee may make recommendations to the department on the maximum
3543 rates that should be set under Subsection (1).

3544 (3) (a) [~~The department shall prohibit ground~~] Ground ambulance providers and
3545 paramedic providers [~~from charging~~] may not charge fees for transporting a patient when the
3546 provider does not transport the patient.

3547 (b) The provisions of Subsection (3)(a) do not apply to ambulance providers or
3548 paramedic providers in a geographic service area which contains a town as defined in
3549 Subsection [10-2-301\(2\)\(f\)](#).

3550 Section 41. Section **26B-4-154 (Superseded 07/01/24)** is amended to read:

3551 **26B-4-154 (Superseded 07/01/24). Ground ambulance and paramedic licenses --**
3552 **Agency notice of approval.**

3553 (1) [~~Beginning January 1, 2004, if~~] If the department determines that the application
3554 meets the minimum requirements for licensure under Section [26B-4-153](#), the department shall
3555 issue a notice of the approved application to the applicant.

3556 (2) A current license holder responding to a request for proposal under Section
3557 [26B-4-156](#) is considered an approved applicant for purposes of Section [26B-4-156](#) if the
3558 current license holder, prior to responding to the request for proposal, submits the following to
3559 the department:

3560 (a) the information described in Subsections 26B-4-153(4)(a)(i) through (iii); and

3561 (b) (i) if the license holder is a private entity, a financial statement, a pro forma budget
3562 and necessary letters of credit demonstrating a financial ability to expand service to a new
3563 service area; or

3564 (ii) if the license holder is a governmental entity, a letter from the governmental entity's
3565 governing body demonstrating the governing body's willingness to financially support the
3566 application.

3567 Section 42. Section 26B-4-201 is amended to read:

3568 **26B-4-201. Definitions.**

3569 As used in this part:

3570 (1) "Active tetrahydrocannabinol" means THC, any THC analog, and
3571 tetrahydrocannabinolic acid.

3572 (2) "Advertise" [~~or "advertising"~~] means information provided by a [~~medical cannabis~~
3573 ~~pharmacy~~] person in any medium:

3574 (a) to the public; and

3575 (b) that is not age restricted to an individual who is at least 21 years old.

3576 (3) "Advisory board" means the Medical Cannabis Policy Advisory Board created in
3577 Section 26B-1-435.

3578 (4) "Cannabis Research Review Board" means the Cannabis Research Review Board
3579 created in Section 26B-1-420.

3580 (5) "Cannabis" means marijuana.

3581 [~~(6) "Cannabis cultivation facility" means the same as that term is defined in Section~~
3582 ~~4-41a-102.~~]

3583 [~~(7)~~ (6) "Cannabis processing facility" means the same as that term is defined in
3584 Section 4-41a-102.

3585 [~~(8)~~ (7) "Cannabis product" means a product that:

3586 (a) is intended for human use; and

3587 (b) contains cannabis or any tetrahydrocannabinol or THC analog in a total
3588 concentration of 0.3% or greater on a dry weight basis.

3589 [~~(9)~~ (8) "Cannabis production establishment" means the same as that term is defined
3590 in Section 4-41a-102.

3591 ~~[(10)]~~ (9) "Cannabis production establishment agent" means the same as that term is
3592 defined in Section [4-41a-102](#).

3593 ~~[(11)]~~ (10) "Cannabis production establishment agent registration card" means the
3594 same as that term is defined in Section [4-41a-102](#).

3595 ~~[(12)]~~ "Community location" means a public or private elementary or secondary school,
3596 a church, a public library, a public playground, or a public park.]

3597 ~~[(13)]~~ (11) "Conditional medical cannabis card" means an electronic medical cannabis
3598 card that the department issues in accordance with Subsection [26B-4-213](#)(1)(b) to allow an
3599 applicant for a medical cannabis card to access medical cannabis during the department's
3600 review of the application.

3601 ~~[(14)]~~ (12) "Controlled substance database" means the controlled substance database
3602 created in Section [58-37f-201](#).

3603 ~~[(15)]~~ (13) "Delivery address" means:

3604 (a) for a medical cannabis cardholder who is not a facility, the medical cannabis
3605 cardholder's home address; or

3606 (b) for a medical cannabis cardholder that is a facility, the facility's address.

3607 ~~[(16)]~~ (14) "Department" means the Department of Health and Human Services.

3608 ~~[(17)]~~ (15) "Designated caregiver" means:

3609 (a) an individual:

3610 (i) whom an individual with a medical cannabis patient card or a medical cannabis
3611 guardian card designates as the patient's caregiver; and

3612 (ii) who registers with the department under Section [26B-4-214](#); or

3613 (b) (i) a facility that an individual designates as a designated caregiver in accordance
3614 with Subsection [26B-4-214](#)(1)(b); or

3615 (ii) an assigned employee of the facility described in Subsection [26B-4-214](#)(1)(b)(ii).

3616 ~~[(18)]~~ (16) "Directions of use" means recommended routes of administration for a
3617 medical cannabis treatment and suggested usage guidelines.

3618 ~~[(19)]~~ (17) "Dosing guidelines" means a quantity range and frequency of administration
3619 for a recommended treatment of medical cannabis.

3620 ~~[(20)]~~ "Financial institution" means a bank, trust company, savings institution, or credit
3621 union, chartered and supervised under state or federal law.]

3622 [~~(21)~~] (18) "Government issued photo identification" means any of the following forms
3623 of identification:

- 3624 (a) a valid state-issued driver license or identification card;
- 3625 (b) a valid United States federal-issued photo identification, including:
 - 3626 (i) a United States passport;
 - 3627 (ii) a United States passport card;
 - 3628 (iii) a United States military identification card; or
 - 3629 (iv) a permanent resident card or alien registration receipt card; or
- 3630 (c) a foreign passport.

3631 [~~(22)~~] (19) "Home delivery medical cannabis pharmacy" means a medical cannabis
3632 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical
3633 cannabis shipments to a delivery address to fulfill electronic orders that the state central patient
3634 portal facilitates.

3635 [~~(23)~~] (20) "Inventory control system" means the system described in Section
3636 4-41a-103.

3637 [~~(24)~~] (21) "Legal dosage limit" means an amount that:

- 3638 (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the
3639 relevant recommending medical provider or the state central patient portal or pharmacy
3640 medical provider, in accordance with Subsection 26B-4-230(5), recommends; and
- 3641 (b) may not exceed:
 - 3642 (i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and
 - 3643 (ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total,
3644 greater than 20 grams of active tetrahydrocannabinol.

3645 [~~(25)~~] (22) "Legal use termination date" means a date on the label of a container of
3646 unprocessed cannabis flower:

- 3647 (a) that is 60 days after the date of purchase of the cannabis; and
- 3648 (b) after which, the cannabis is no longer in a medicinal dosage form outside of the
3649 primary residence of the relevant medical cannabis patient cardholder.

3650 [~~(26)~~] (23) "Limited medical provider" means an individual who:

- 3651 (a) meets the recommending qualifications; and
- 3652 (b) has no more than 15 patients with a valid medical cannabis patient card [or

3653 ~~provisional patient card]~~ as a result of the individual's recommendation, in accordance with
3654 Subsection [26B-4-204\(1\)\(b\)](#).

3655 ~~[(27)]~~ [\(24\)](#) "Marijuana" means the same as that term is defined in Section [58-37-2](#).

3656 ~~[(28)]~~ [\(25\)](#) "Medical cannabis" means cannabis in a medicinal dosage form or a
3657 cannabis product in a medicinal dosage form.

3658 ~~[(29)]~~ [\(26\)](#) "Medical cannabis card" means a medical cannabis patient card, a medical
3659 cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis
3660 card.

3661 ~~[(30)]~~ [\(27\)](#) "Medical cannabis cardholder" means:

3662 (a) a holder of a medical cannabis card; or

3663 (b) a facility or assigned employee, described in Subsection(17)(b), only:

3664 (i) within the scope of the facility's or assigned employee's performance of the role of a
3665 medical cannabis patient cardholder's caregiver designation under Subsection [26B-4-214\(1\)\(b\)](#);
3666 and

3667 (ii) while in possession of documentation that establishes:

3668 (A) a caregiver designation described in Subsection [26B-4-214\(1\)\(b\)](#);

3669 (B) the identity of the individual presenting the documentation; and

3670 (C) the relation of the individual presenting the documentation to the caregiver
3671 designation.

3672 ~~[(31)]~~ [\(28\)](#) "Medical cannabis caregiver card" means an electronic document that a
3673 cardholder may print or store on an electronic device or a physical card or document that:

3674 (a) the department issues to an individual whom a medical cannabis patient cardholder
3675 or a medical cannabis guardian cardholder designates as a designated caregiver; and

3676 (b) is connected to the electronic verification system.

3677 ~~[(32)]~~ [\(29\)](#) "Medical cannabis courier" means the same as that term is defined in
3678 Section [4-41a-102](#).

3679 ~~[(33)] "Medical cannabis courier agent" means the same as that term is defined in~~
3680 ~~Section [4-41a-102](#);~~

3681 ~~[(34)]~~ [\(30\)](#) (a) "Medical cannabis device" means a device that an individual uses to
3682 ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal
3683 dosage form.

3684 (b) "Medical cannabis device" does not include a device that:

3685 (i) facilitates cannabis combustion; or

3686 (ii) an individual uses to ingest substances other than cannabis.

3687 [~~35~~] (31) "Medical cannabis guardian card" means an electronic document that a
3688 cardholder may print or store on an electronic device or a physical card or document that:

3689 (a) the department issues to the parent or legal guardian of a minor with a qualifying
3690 condition; and

3691 (b) is connected to the electronic verification system.

3692 [~~36~~] (32) "Medical cannabis patient card" means an electronic document that a
3693 cardholder may print or store on an electronic device or a physical card or document that:

3694 (a) the department issues to an individual with a qualifying condition; and

3695 (b) is connected to the electronic verification system.

3696 [~~37~~] (33) "Medical cannabis pharmacy" means a person that:

3697 (a) (i) acquires or intends to acquire medical cannabis or a cannabis product in a
3698 medicinal dosage form from a cannabis processing facility or another medical cannabis
3699 pharmacy or a medical cannabis device; or

3700 (ii) possesses medical cannabis or a medical cannabis device; and

3701 (b) sells or intends to sell medical cannabis or a medical cannabis device to a medical
3702 cannabis cardholder.

3703 [~~38~~] (34) "Medical cannabis pharmacy agent" means an individual who holds a valid
3704 medical cannabis pharmacy agent registration card issued by the department.

3705 [~~39~~] (35) "Medical cannabis pharmacy agent registration card" means a registration
3706 card issued by the department that authorizes an individual to act as a medical cannabis
3707 pharmacy agent.

3708 [~~40~~] (36) "Medical cannabis shipment" means the same as that term is defined in
3709 Section [4-41a-102](#).

3710 [~~41~~] (37) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a
3711 cannabis product in a medicinal dosage form, or a medical cannabis device.

3712 [~~42~~] (38) (a) "Medicinal dosage form" means:

3713 (i) for processed medical cannabis or a medical cannabis product, the following with a
3714 specific and consistent cannabinoid content:

- 3715 (A) a tablet;
- 3716 (B) a capsule;
- 3717 (C) a concentrated liquid or viscous oil;
- 3718 (D) a liquid suspension that~~[, after December 1, 2022,]~~ does not exceed 30 [ml]
- 3719 milliliters;
- 3720 (E) a topical preparation;
- 3721 (F) a transdermal preparation;
- 3722 (G) a sublingual preparation;
- 3723 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
- 3724 rectangular cuboid shape;
- 3725 (I) a resin or wax; or
- 3726 (J) an aerosol; or
- 3727 (ii) for unprocessed cannabis flower, a container described in Section [4-41a-602](#) that:
- 3728 (A) contains cannabis [~~flowers~~] flower in a quantity that varies by no more than 10%
- 3729 from the stated weight at the time of packaging;
- 3730 (B) at any time the medical cannabis cardholder transports or possesses the container in
- 3731 public, is contained within an opaque bag or box that the medical cannabis pharmacy provides;
- 3732 and
- 3733 (C) is labeled with the container's content and weight, the date of purchase, the legal
- 3734 use termination date, and [~~after December 31, 2020,~~] a barcode that provides information
- 3735 connected to an inventory control system .
- 3736 (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:
- 3737 (i) the medical cannabis cardholder has recently removed from the container described
- 3738 in Subsection (42)(a)(ii) for use; and
- 3739 (ii) does not exceed the quantity described in Subsection (42)(a)(ii).
- 3740 (c) "Medicinal dosage form" does not include:
- 3741 (i) any unprocessed cannabis flower outside of the container described in Subsection
- 3742 (42)(a)(ii), except as provided in Subsection (42)(b);
- 3743 (ii) any unprocessed cannabis flower in a container described in Subsection (42)(a)(ii)
- 3744 after the legal use termination date;
- 3745 (iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis

3746 on a nail or other metal object that is heated by a flame, including a blowtorch;
3747 (iv) a liquid suspension that is branded as a beverage; or
3748 (v) a substance described in Subsection (42)(a)(i) or (ii) if the substance is not
3749 measured in grams, milligrams, or milliliters.

3750 ~~[(43)]~~ (39) "Nonresident patient" means an individual who:
3751 (a) is not a resident of Utah or has been a resident of Utah for less than 45 days;
3752 (b) has a currently valid medical cannabis card or the equivalent of a medical cannabis
3753 card under the laws of another state, district, territory, commonwealth, or insular possession of
3754 the United States; and
3755 (c) has been diagnosed with a qualifying condition as described in Section 26B-4-203.

3756 ~~[(44)]~~ "Payment provider" means an entity that contracts with a cannabis production
3757 establishment or medical cannabis pharmacy to facilitate transfers of funds between the
3758 establishment or pharmacy and other businesses or individuals.]

3759 ~~[(45)]~~ (40) "Pharmacy medical provider" means the medical provider required to be on
3760 site at a medical cannabis pharmacy under Section 26B-4-219.

3761 ~~[(46)]~~ (41) "Provisional patient card" means a card that:
3762 (a) the department issues to a minor with a qualifying condition for whom:
3763 (i) a recommending medical provider has recommended a medical cannabis treatment;
3764 and
3765 (ii) the department issues a medical cannabis guardian card to the minor's parent or
3766 legal guardian; and
3767 (b) is connected to the electronic verification system.

3768 ~~[(47)]~~ (42) "Qualified medical provider" means an individual:
3769 (a) who meets the recommending qualifications; and
3770 (b) whom the department registers to recommend treatment with cannabis in a
3771 medicinal dosage form under Section 26B-4-204.

3772 ~~[(48)]~~ (43) "Qualified Patient Enterprise Fund" means the enterprise fund created in
3773 Section 26B-1-310.

3774 ~~[(49)]~~ (44) "Qualifying condition" means a condition described in Section 26B-4-203.

3775 ~~[(50)]~~ (45) "Recommend" or "recommendation" means, for a recommending medical
3776 provider, the act of suggesting the use of medical cannabis treatment, which:

- 3777 (a) certifies the patient's eligibility for a medical cannabis card; and
- 3778 (b) may include, at the recommending medical provider's discretion, directions of use,
- 3779 with or without dosing guidelines.
- 3780 ~~[(51)]~~ (46) "Recommending medical provider" means a qualified medical provider or a
- 3781 limited medical provider.
- 3782 ~~[(52)]~~ (47) "Recommending qualifications" means that an individual:
- 3783 (a) (i) has the authority to write a prescription;
- 3784 (ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah
- 3785 Controlled Substances Act; and
- 3786 (iii) possesses the authority, in accordance with the individual's scope of practice, to
- 3787 prescribe a Schedule II controlled substance; and
- 3788 (b) is licensed as:
- 3789 (i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 3790 (ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice
- 3791 Act;
- 3792 (iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58,
- 3793 Chapter 68, Utah Osteopathic Medical Practice Act; or
- 3794 (iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.
- 3795 ~~[(53)]~~ (48) "State central patient portal" means the website the department creates, in
- 3796 accordance with Section [26B-4-236](#), to facilitate patient safety, education, and an electronic
- 3797 medical cannabis order.
- 3798 ~~[(54)]~~ (49) "State electronic verification system" means the system described in Section
- 3799 [26B-4-202](#).
- 3800 ~~[(55)] "Targeted marketing" means the promotion by a medical cannabis pharmacy of a~~
- 3801 ~~medical cannabis product, medical cannabis brand, or a medical cannabis device using any of~~
- 3802 ~~the following methods:]~~
- 3803 ~~[(a) electronic communication to an individual who is at least 21 years old and has~~
- 3804 ~~requested to receive promotional information from the medical cannabis pharmacy;]~~
- 3805 ~~[(b) an in-person marketing event that is:]~~
- 3806 ~~[(i) held inside a medical cannabis pharmacy; and]~~
- 3807 ~~[(ii) in an area where only a medical cannabis cardholder may access the event; or]~~

3808 [~~(c) other marketing material that is physically available or digitally displayed in:~~]

3809 [~~(i) a medical cannabis pharmacy; and~~]

3810 [~~(ii) an area where only a medical cannabis cardholder has access.]~~]

3811 [~~(56)~~] (50) "Tetrahydrocannabinol" or "THC" means a substance derived from

3812 cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

3813 [~~(57)~~] (51) "THC analog" means the same as that term is defined in Section 4-41-102.

3814 Section 43. Section **26B-4-202** is amended to read:

3815 **26B-4-202. Electronic verification system.**

3816 (1) The Department of Agriculture and Food, the department, the Department of Public
3817 Safety, and the Division of Technology Services shall:

3818 (a) enter into a memorandum of understanding in order to determine the function and
3819 operation of the state electronic verification system in accordance with Subsection (2);

3820 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah
3821 Procurement Code, to develop a request for proposals for a third-party provider to develop and
3822 maintain the state electronic verification system in coordination with the Division of
3823 Technology Services; and

3824 (c) select a third-party provider who:

3825 (i) meets the requirements contained in the request for proposals issued under
3826 Subsection (1)(b); and

3827 (ii) may not have any commercial or ownership interest in a cannabis production
3828 establishment or a medical cannabis pharmacy.

3829 (2) The Department of Agriculture and Food, the department, the Department of Public
3830 Safety, and the Division of Technology Services shall ensure that the state electronic
3831 verification system described in Subsection (1):

3832 (a) allows an individual to apply for a medical cannabis patient card or, if applicable, a
3833 medical cannabis guardian card, provided that the card may not become active until:

3834 (i) the relevant qualified medical provider completes the associated medical cannabis
3835 recommendation; or

3836 (ii) for a medical cannabis card related to a limited medical provider's
3837 recommendation, the medical cannabis pharmacy completes the recording described in
3838 Subsection (2)(d);

- 3839 (b) allows an individual to apply to renew a medical cannabis patient card or a medical
3840 cannabis guardian card in accordance with Section 26B-4-213;
- 3841 (c) allows a qualified medical provider, or an employee described in Subsection (3)
3842 acting on behalf of the qualified medical provider, to:
- 3843 (i) access dispensing and card status information regarding a patient:
- 3844 (A) with whom the qualified medical provider has a provider-patient relationship; and
3845 (B) for whom the qualified medical provider has recommended or is considering
3846 recommending a medical cannabis card;
- 3847 (ii) electronically [~~recommend treatment~~] recommend treatment with cannabis in a
3848 medicinal dosage form or a cannabis product in a medicinal dosage form and optionally
3849 recommend dosing guidelines;
- 3850 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or
3851 medical cannabis guardian cardholder:
- 3852 (A) using telehealth services, for the qualified medical provider who originally
3853 recommended a medical cannabis treatment during a face-to-face visit with the patient; or
3854 (B) during a face-to-face visit with the patient, for a qualified medical provider who
3855 did not originally recommend the medical cannabis treatment during a face-to-face visit
- 3856 (iv) submit an initial application, renewal application, or application payment on behalf
3857 of an individual applying for any of the following:
- 3858 (A) a medical cannabis patient card;
3859 (B) a medical cannabis guardian card; or
3860 (C) a medical cannabis caregiver card;
- 3861 (d) allows a medical cannabis pharmacy medical provider or medical cannabis
3862 pharmacy agent, in accordance with Subsection 4-41a-1101(10)(a), to:
- 3863 (i) access the electronic verification system to review the history within the system of a
3864 patient with whom the provider or agent is interacting, limited to read-only access for medical
3865 cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge
3866 authorizes add and edit access;
- 3867 (ii) record a patient's recommendation from a limited medical provider, including any
3868 directions of use, dosing guidelines, or caregiver indications from the limited medical provider;
- 3869 (iii) record a limited medical provider's renewal of the provider's previous

3870 recommendation; and

3871 (iv) submit an initial application, renewal application, or application payment on behalf
3872 of an individual applying for any of the following:

3873 (A) a medical cannabis patient card;

3874 (B) a medical cannabis guardian card; or

3875 (C) a medical cannabis caregiver card;

3876 (e) connects with:

3877 (i) an inventory control system that a medical cannabis pharmacy uses to track in real
3878 time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a
3879 medicinal dosage form, or a medical cannabis device, including:

3880 (A) the time and date of each purchase;

3881 (B) the quantity and type of cannabis, cannabis product, or medical cannabis device
3882 purchased;

3883 (C) any cannabis production establishment, any medical cannabis pharmacy, or any
3884 medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis
3885 device; and

3886 (D) the personally identifiable information of the medical cannabis cardholder who
3887 made the purchase; and

3888 (ii) any commercially available inventory control system that a cannabis production
3889 establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of
3890 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah
3891 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to
3892 track and confirm compliance;

3893 (f) provides access to:

3894 (i) the department to the extent necessary to carry out the department's functions and
3895 responsibilities under this part;

3896 (ii) the Department of Agriculture and Food to the extent necessary to carry out the
3897 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter
3898 41a, Cannabis Production Establishments and Pharmacies; and

3899 (iii) the Division of Professional Licensing to the extent necessary to carry out the
3900 functions and responsibilities related to the participation of the following in the

3901 recommendation and dispensing of medical cannabis:

3902 (A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

3903 (B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

3904 (C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse

3905 Practice Act;

3906 (D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or

3907 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

3908 (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant

3909 Act;

3910 (g) provides access to and interaction with the state central patient portal;

3911 (h) communicates dispensing information from a record that a medical cannabis

3912 pharmacy submits to the state electronic verification system under Subsection

3913 [4-41a-1102\(3\)\(a\)\(ii\)](#) to the controlled substance database;

3914 (i) provides access to state or local law enforcement:

3915 (i) during a law enforcement encounter, without a warrant, using the individual's driver

3916 license or state ID, only for the purpose of determining if the individual subject to the law

3917 enforcement encounter has a valid medical cannabis card; or

3918 (ii) after obtaining a warrant; and

3919 (j) creates a record each time a person accesses the system that identifies the person

3920 who accesses the system and the individual whose records the person accesses.

3921 (3) (a) An employee of a qualified medical provider may access the electronic

3922 verification system for a purpose described in Subsection (2)(c) on behalf of the qualified

3923 medical provider if:

3924 (i) the qualified medical provider has designated the employee as an individual

3925 authorized to access the electronic verification system on behalf of the qualified medical

3926 provider;

3927 (ii) the qualified medical provider provides written notice to the department of the

3928 employee's identity and the designation described in Subsection (3)(a)(i); and

3929 (iii) the department grants to the employee access to the electronic verification system.

3930 (b) An employee of a business that employs a qualified medical provider may access

3931 the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the

3932 qualified medical provider if:

3933 (i) the qualified medical provider has designated the employee as an individual
3934 authorized to access the electronic verification system on behalf of the qualified medical
3935 provider;

3936 (ii) the qualified medical provider and the employing business jointly provide written
3937 notice to the department of the employee's identity and the designation described in Subsection
3938 (3)(b)(i); and

3939 (iii) the department grants to the employee access to the electronic verification system.

3940 (4) (a) As used in this Subsection (4), "prescribing provider" means:

3941 (i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

3942 (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
3943 Practice Act;

3944 (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
3945 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

3946 (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
3947 Assistant Act.

3948 (b) A prescribing provider may access information in the electronic verification system
3949 regarding a patient the prescribing provider treats.

3950 (5) The department may release limited data that the system collects for the purpose of:

3951 (a) conducting medical and other department approved research;

3952 (b) providing the report required by Section [26B-4-222](#); and

3953 (c) other official department purposes.

3954 (6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
3955 Administrative Rulemaking Act, to establish:

3956 (a) the limitations on access to the data in the state electronic verification system as
3957 described in this section; and

3958 (b) standards and procedures to ensure accurate identification of an individual
3959 requesting information or receiving information in this section.

3960 (7) (a) Any person who knowingly and intentionally releases any information in the
3961 state electronic verification system in violation of this section is guilty of a third degree felony.

3962 (b) Any person who negligently or recklessly releases any information in the state

3963 electronic verification system in violation of this section is guilty of a class C misdemeanor.

3964 (8) (a) Any person who obtains or attempts to obtain information from the state
3965 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

3966 (b) Any person who obtains or attempts to obtain information from the state electronic
3967 verification system for a purpose other than a purpose this part authorizes is guilty of a third
3968 degree felony.

3969 (9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and
3970 intentionally use, release, publish, or otherwise make available to any other person information
3971 obtained from the state electronic verification system for any purpose other than a purpose
3972 specified in this section.

3973 (b) Each separate violation of this Subsection (9) is:

3974 (i) a third degree felony; and

3975 (ii) subject to a civil penalty not to exceed \$5,000.

3976 (c) The department shall determine a civil violation of this Subsection (9) in
3977 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

3978 (d) Civil penalties assessed under this Subsection (9) shall be deposited into the
3979 General Fund.

3980 (e) This Subsection (9) does not prohibit a person who obtains information from the
3981 state electronic verification system under Subsection (2)(a), (c), or (f) from:

3982 (i) including the information in the person's medical chart or file for access by a person
3983 authorized to review the medical chart or file;

3984 (ii) providing the information to a person in accordance with the requirements of the
3985 Health Insurance Portability and Accountability Act of 1996; or

3986 (iii) discussing or sharing that information about the patient with the patient.

3987 Section 44. Section **26B-4-213** is amended to read:

3988 **26B-4-213. Medical cannabis patient card -- Medical cannabis guardian card --**
3989 **Conditional medical cannabis card -- Application -- Fees -- Studies.**

3990 (1) (a) Subject to Section [26B-4-246](#), within 15 days after the day on which an
3991 individual who satisfies the eligibility criteria in this section or Section [26B-4-214](#) submits an
3992 application in accordance with this section or Section [26B-4-214](#), the department shall:

3993 (i) issue a medical cannabis patient card to an individual described in Subsection

3994 (2)(a);
3995 (ii) issue a medical cannabis guardian card to an individual described in Subsection
3996 (2)(b);
3997 (iii) issue a provisional patient card to a minor described in Subsection (2)(c); and
3998 (iv) issue a medical cannabis caregiver card to an individual described in Subsection
3999 26B-4-214(4).
4000 (b) (i) Upon the entry of a recommending medical provider's medical cannabis
4001 recommendation for a patient in the state electronic verification system, either by the provider
4002 or the provider's employee or by a medical cannabis pharmacy medical provider or medical
4003 cannabis pharmacy in accordance with Subsection 4-41a-1101(10)(a), the department shall
4004 issue to the patient an electronic conditional medical cannabis card, in accordance with this
4005 Subsection (1)(b).
4006 (ii) A conditional medical cannabis card is valid for the lesser of:
4007 (A) 60 days; or
4008 (B) the day on which the department completes the department's review and issues a
4009 medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card
4010 application, or revokes the conditional medical cannabis card under Subsection (8).
4011 (iii) The department may issue a conditional medical cannabis card to an individual
4012 applying for a medical cannabis patient card for which approval of the Compassionate Use
4013 Board is not required.
4014 (iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and
4015 obligations under law applicable to a holder of the medical cannabis card for which the
4016 individual applies and for which the department issues the conditional medical cannabis card.
4017 (2) (a) An individual is eligible for a medical cannabis patient card if:
4018 (i) (A) the individual is at least 21 years old; or
4019 (B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate
4020 Use Board under Section 26B-1-421, and the Compassionate Use Board recommends
4021 department approval of the petition;
4022 (ii) the individual is a Utah resident;
4023 (iii) the individual's recommending medical provider recommends treatment with
4024 medical cannabis in accordance with Subsection (4);

- 4025 (iv) the individual signs an acknowledgment stating that the individual received the
4026 information described in Subsection (9); and
- 4027 (v) the individual pays to the department a fee in an amount that, subject to Subsection
4028 26B-1-310(5), the department sets in accordance with Section 63J-1-504.
- 4029 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:
- 4030 (A) is at least 18 years old;
- 4031 (B) is a Utah resident;
- 4032 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical
4033 provider recommends a medical cannabis treatment, the individual petitions the Compassionate
4034 Use Board under Section 26B-1-421, and the Compassionate Use Board recommends
4035 department approval of the petition;
- 4036 (D) the individual signs an acknowledgment stating that the individual received the
4037 information described in Subsection (9);
- 4038 (E) pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5),
4039 the department sets in accordance with Section 63J-1-504, plus the cost of the criminal
4040 background check described in Section 26B-4-215.
- 4041 (ii) The department shall notify the Department of Public Safety of each individual that
4042 the department registers for a medical cannabis guardian card.
- 4043 (c) (i) A minor is eligible for a provisional patient card if:
- 4044 (A) the minor has a qualifying condition;
- 4045 (B) the minor's qualified medical provider recommends a medical cannabis treatment
4046 to address the minor's qualifying condition;
- 4047 (C) one of the minor's parents or legal guardians petitions the Compassionate Use
4048 Board under Section 26B-1-421, and the Compassionate Use Board recommends department
4049 approval of the petition; and
- 4050 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card
4051 under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a
4052 medical cannabis caregiver card under Section 26B-4-214.
- 4053 (ii) The department shall automatically issue a provisional patient card to the minor
4054 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis
4055 guardian card to the minor's parent or legal guardian.

4056 (d) If the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A)
4057 through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the
4058 parent or legal guardian may designate up to two caregivers in accordance with Subsection
4059 26B-4-214(1)(c) to ensure that the minor has adequate and safe access to the recommended
4060 medical cannabis treatment.

4061 (3) (a) An individual who is eligible for a medical cannabis card described in
4062 Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the
4063 department:

4064 (i) through an electronic application connected to the state electronic verification
4065 system;

4066 (ii) with the recommending medical provider; and

4067 (iii) with information including:

4068 (A) the applicant's name, gender, age, and address;

4069 (B) the number of the applicant's government issued photo identification;

4070 (C) for a medical cannabis guardian card, the name, gender, and age of the minor
4071 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;
4072 and

4073 (D) for a provisional patient card, the name of the minor's parent or legal guardian who
4074 holds the associated medical cannabis guardian card.

4075 (b) The department shall ensure that a medical cannabis card the department issues
4076 under this section contains the information described in Subsection (3)(a)(iii).

4077 (c) (i) If a recommending medical provider determines that, because of age, illness, or
4078 disability, a medical cannabis patient cardholder requires assistance in administering the
4079 medical cannabis treatment that the recommending medical provider recommends, the
4080 recommending medical provider may indicate the cardholder's need in the state electronic
4081 verification system, either directly or, for a limited medical provider, through the order
4082 described in Subsections 26B-4-204(1)(c) and (d).

4083 (ii) If a recommending medical provider makes the indication described in Subsection
4084 (3)(c)(i):

4085 (A) the department shall add a label to the relevant medical cannabis patient card
4086 indicating the cardholder's need for assistance;

4087 (B) any adult who is 18 years old or older and who is physically present with the
4088 cardholder at the time the cardholder needs to use the recommended medical cannabis
4089 treatment may handle the medical cannabis treatment and any associated medical cannabis
4090 device as needed to assist the cardholder in administering the recommended medical cannabis
4091 treatment; and

4092 (C) an individual of any age who is physically present with the cardholder in the event
4093 of an emergency medical condition, as that term is defined in Section 31A-1-301, may handle
4094 the medical cannabis treatment and any associated medical cannabis device as needed to assist
4095 the cardholder in administering the recommended medical cannabis treatment.

4096 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

4097 (A) ingest or inhale medical cannabis;

4098 (B) possess, transport, or handle medical cannabis or a medical cannabis device outside
4099 of the immediate area where the cardholder is present or with an intent other than to provide
4100 assistance to the cardholder; or

4101 (C) possess, transport, or handle medical cannabis or a medical cannabis device when
4102 the cardholder is not in the process of being dosed with medical cannabis.

4103 (4) To recommend a medical cannabis treatment to a patient or to renew a
4104 recommendation, a recommending medical provider shall:

4105 (a) visit with the patient face-to-face for an initial recommendation unless the patient:

4106 (i) prefers a virtual visit; and

4107 (ii) (A) is on hospice or has a terminal illness according to the patient's medical
4108 provider; or

4109 (B) is a resident of an assisted living facility, as defined in Section 26B-2-201, or a
4110 nursing care facility, as defined in Section 26B-2-201;

4111 (b) before recommending or renewing a recommendation for medical cannabis in a
4112 medicinal dosage form or a cannabis product in a medicinal dosage form:

4113 (i) verify the patient's and, for a minor patient, the minor patient's parent or legal
4114 guardian's government issued photo identification described in Subsection (3)(a);

4115 (ii) review any record related to the patient and, for a minor patient, the patient's parent
4116 or legal guardian in:

4117 (A) for a qualified medical provider, the state electronic verification system; and

- 4118 (B) the controlled substance database created in Section [58-37f-201](#); and
- 4119 (iii) consider the recommendation in light of the patient's qualifying condition, history
- 4120 of substance use or opioid use disorder, and history of medical cannabis and controlled
- 4121 substance use during a visit with the patient; and
- 4122 (c) state in the recommending medical provider's recommendation that the patient:
- 4123 (i) suffers from a qualifying condition, including the type of qualifying condition; and
- 4124 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis
- 4125 product in a medicinal dosage form.
- 4126 (5) (a) Except as provided in Subsection (5)(b) or (c), a medical cannabis card that the
- 4127 department issues under this section is valid for the lesser of:
- 4128 (i) an amount of time that the recommending medical provider determines; or
- 4129 (ii) one year from the day the card is issued.
- 4130 (b) (i) A medical cannabis card that the department issues in relation to a terminal
- 4131 illness described in Section [26B-4-203](#) expires after one year.
- 4132 (ii) The recommending medical provider may revoke a recommendation that the
- 4133 provider made in relation to a terminal illness described in Section [26B-4-203](#) if the medical
- 4134 cannabis cardholder no longer has the terminal illness.
- 4135 (c) A medical cannabis card that the department issues in relation to acute pain as
- 4136 described in Section [26B-4-203](#) expires 30 days after the day on which the department first
- 4137 issues a conditional or full medical cannabis card.
- 4138 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is
- 4139 renewable if:
- 4140 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or
- 4141 (b); or
- 4142 (ii) the cardholder received the medical cannabis card through the recommendation of
- 4143 the Compassionate Use Board under Section [26B-1-421](#).
- 4144 (b) The recommending medical provider who made the underlying recommendation
- 4145 for the card of a cardholder described in Subsection (6)(a) may renew the cardholder's card
- 4146 through phone or video conference with the cardholder, at the recommending medical
- 4147 provider's discretion.
- 4148 (c) Before having access to a renewed card, a cardholder under Subsection (2)(a) or (b)

4149 shall pay to the department a renewal fee in an amount that:

4150 (i) subject to Subsection 26B-1-310(5), the department sets in accordance with Section
4151 63J-1-504; and

4152 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in
4153 comparison to the original application process.

4154 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional
4155 patient card renews automatically at the time the minor's parent or legal guardian renews the
4156 parent or legal guardian's associated medical cannabis guardian card.

4157 (7) (a) A cardholder under this section shall carry the cardholder's valid medical
4158 cannabis card with the patient's name.

4159 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
4160 purchase, in accordance with this part and the recommendation underlying the card, cannabis in
4161 a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis
4162 device.

4163 (ii) A cardholder under this section may possess or transport, in accordance with this
4164 part and the recommendation underlying the card, cannabis in a medicinal dosage form, a
4165 cannabis product in a medicinal dosage form, or a medical cannabis device.

4166 (iii) To address the qualifying condition underlying the medical cannabis treatment
4167 recommendation:

4168 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use
4169 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,
4170 or a medical cannabis device; and

4171 (B) a medical cannabis guardian cardholder may assist the associated provisional
4172 patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis
4173 product in a medicinal dosage form, or a medical cannabis device.

4174 (8) (a) The department may revoke a medical cannabis card that the department issues
4175 under this section if:

4176 (i) the recommending medical provider withdraws the medical provider's
4177 recommendation for medical cannabis; or

4178 (ii) the cardholder:

4179 (A) violates this part; or

4180 (B) is convicted under state or federal law of, after March 17, 2021, a drug distribution
4181 offense.

4182 (b) The department may not refuse to issue a medical cannabis card to a patient solely
4183 based on a prior revocation under Subsection (8)(a)(i).

4184 (9) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
4185 Utah Administrative Rulemaking Act, a process to provide information regarding the following
4186 to an individual receiving a medical cannabis card:

4187 (a) risks associated with medical cannabis treatment;

4188 (b) the fact that a condition's listing as a qualifying condition does not suggest that
4189 medical cannabis treatment is an effective treatment or cure for that condition, as described in
4190 Subsection 26B-4-203(1); and

4191 (c) other relevant warnings and safety information that the department determines.

4192 (10) The department may establish procedures by rule, in accordance with Title 63G,
4193 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance
4194 provisions of this section.

4195 (11) (a) [~~On or before September 1, 2021, the~~] The department shall establish by rule,
4196 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to
4197 allow an individual from another state to register with the department in order to purchase
4198 medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the
4199 individual is visiting the state.

4200 (b) The department may only provide the registration process described in Subsection
4201 (11)(a):

4202 (i) to a nonresident patient; and

4203 (ii) for no more than two visitation periods per calendar year of up to 21 calendar days
4204 per visitation period.

4205 (12) (a) A person may submit to the department a request to conduct a research study
4206 using medical cannabis cardholder data that the state electronic verification system contains.

4207 (b) The department shall review a request described in Subsection (12)(a) to determine
4208 whether an institutional review board, as that term is defined in Section 26B-4-201, could
4209 approve the research study.

4210 (c) At the time an individual applies for a medical cannabis card, the department shall

4211 notify the individual:

4212 (i) of how the individual's information will be used as a cardholder;

4213 (ii) that by applying for a medical cannabis card, unless the individual withdraws

4214 consent under Subsection (12)(d), the individual consents to the use of the individual's

4215 information for external research; and

4216 (iii) that the individual may withdraw consent for the use of the individual's

4217 information for external research at any time, including at the time of application.

4218 (d) An applicant may, through the medical cannabis card application, and a medical

4219 cannabis cardholder may, through the state central patient portal, withdraw the applicant's or

4220 cardholder's consent to participate in external research at any time.

4221 (e) The department may release, for the purposes of a study described in this

4222 Subsection (12), information about a cardholder under this section who consents to participate

4223 under Subsection (12)(c).

4224 (f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of

4225 consent:

4226 (i) applies to external research that is initiated after the withdrawal of consent; and

4227 (ii) does not apply to research that was initiated before the withdrawal of consent.

4228 (g) The department may establish standards for a medical research study's validity, by

4229 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

4230 (13) The department shall record the issuance or revocation of a medical cannabis card

4231 under this section in the controlled substance database.

4232 Section 45. Section **26B-4-214** is amended to read:

4233 **26B-4-214. Medical cannabis caregiver card -- Registration -- Renewal --**

4234 **Revocation.**

4235 (1) (a) A cardholder described in Section **26B-4-213** may designate, through the state

4236 central patient portal, up to two individuals, or an individual and a facility in accordance with

4237 Subsection (1)(b), to serve as a designated caregiver for the cardholder.

4238 (b) (i) [~~Beginning on the earlier of September 1, 2021, or the date on which the~~

4239 ~~electronic verification system is functionally capable of servicing the designation, a] A~~

4240 cardholder described in Section **26B-4-213** may designate one of the following types of

4241 facilities as one of the caregivers described in Subsection (1)(a):

4242 (A) for a patient or resident, an assisted living facility, as that term is defined in Section
4243 26B-2-201;

4244 (B) for a patient or resident, a nursing care facility, as that term is defined in Section
4245 26B-2-201; or

4246 (C) for a patient, a general acute hospital, as that term is defined in Section 26B-2-201.

4247 (ii) A facility may:

4248 (A) assign one or more employees to assist patients with medical cannabis treatment
4249 under the caregiver designation described in this Subsection (1)(b); and

4250 (B) receive a medical cannabis shipment from a medical cannabis pharmacy or a
4251 medical cannabis courier on behalf of the medical cannabis cardholder within the facility who
4252 designated the facility as a caregiver.

4253 (iii) The department shall make rules to regulate the practice of facilities and facility
4254 employees serving as designated caregivers under this Subsection (1)(b).

4255 (c) A parent or legal guardian described in Subsection 26B-4-213(2)(d), in consultation
4256 with the minor and the minor's qualified medical provider, may designate, through the state
4257 central patient portal, up to two individuals to serve as a designated caregiver for the minor, if
4258 the department determines that the parent or legal guardian is not eligible for a medical
4259 cannabis guardian card under Section 26B-4-213.

4260 (d) (i) [~~Beginning on the earlier of September 1, 2022, or the date on which the~~
4261 ~~electronic verification system is functionally capable of facilitating a conditional medical~~
4262 ~~cannabis caregiver card under this Subsection (1)(d), upon] Upon the entry of a caregiver
4263 designation under Subsection (1) by a patient with a terminal illness described in Section
4264 26B-4-203, the department shall issue to the designated caregiver an electronic conditional
4265 medical cannabis caregiver card, in accordance with this Subsection (1)(d).~~

4266 (ii) A conditional medical cannabis caregiver card is valid for the lesser of:

4267 (A) 60 days; or

4268 (B) the day on which the department completes the department's review and issues a
4269 medical cannabis caregiver card under Subsection (1)(a), denies the patient's medical cannabis
4270 caregiver card application, or revokes the conditional medical cannabis caregiver card under
4271 26B-4-246.

4272 (iii) The department may issue a conditional medical cannabis card to an individual

4273 applying for a medical cannabis patient card for which approval of the Compassionate Use
4274 Board is not required.

4275 (iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and
4276 obligations under law applicable to a holder of the medical cannabis card for which the
4277 individual applies and for which the department issues the conditional medical cannabis card.

4278 (2) An individual that the department registers as a designated caregiver under this
4279 section and a facility described in Subsection (1)(b):

4280 (a) for an individual designated caregiver, may carry a valid medical cannabis caregiver
4281 card;

4282 (b) in accordance with this part, may purchase, possess, transport, or assist the patient
4283 in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage
4284 form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;

4285 (c) may not charge a fee to an individual to act as the individual's designated caregiver
4286 or for a service that the designated caregiver provides in relation to the role as a designated
4287 caregiver; and

4288 (d) may accept reimbursement from the designating medical cannabis cardholder for
4289 direct costs the designated caregiver incurs for assisting with the designating cardholder's
4290 medicinal use of cannabis.

4291 (3) (a) The department shall:

4292 (i) within 15 days after the day on which an individual submits an application in
4293 compliance with this section, issue a medical cannabis card to the applicant if the applicant:

4294 (A) is designated as a caregiver under Subsection (1);

4295 (B) is eligible for a medical cannabis caregiver card under Subsection (4); and

4296 (C) complies with this section; and

4297 (ii) notify the Department of Public Safety of each individual that the department
4298 registers as a designated caregiver.

4299 (b) The department shall ensure that a medical cannabis caregiver card contains the
4300 information described in Subsections (5)(b) and (3)(c)(i).

4301 (c) If a cardholder described in Section [26B-4-213](#) designates an individual as a
4302 caregiver who already holds a medical cannabis caregiver card, the individual with the medical
4303 cannabis caregiver card:

- 4304 (i) shall report to the department the information required of applicants under
4305 Subsection (5)(b) regarding the new designation;
- 4306 (ii) if the individual makes the report described in Subsection (3)(c)(i), is not required
4307 to file an application for another medical cannabis caregiver card;
- 4308 (iii) may receive an additional medical cannabis caregiver card in relation to each
4309 additional medical cannabis patient who designates the caregiver; and
- 4310 (iv) is not subject to an additional background check.
- 4311 (4) An individual is eligible for a medical cannabis caregiver card if the individual:
- 4312 (a) is at least 21 years old;
- 4313 (b) is a Utah resident;
- 4314 (c) pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5),
4315 the department sets in accordance with Section 63J-1-504, plus the cost of the criminal
4316 background check described in Section 26B-4-215;
- 4317 (d) signs an acknowledgment stating that the applicant received the information
4318 described in Subsection 26B-4-213(9) .
- 4319 (5) An eligible applicant for a medical cannabis caregiver card shall:
- 4320 (a) submit an application for a medical cannabis caregiver card to the department
4321 through an electronic application connected to the state electronic verification system; and
- 4322 (b) submit the following information in the application described in Subsection (5)(a):
- 4323 (i) the applicant's name, gender, age, and address;
- 4324 (ii) the name, gender, age, and address of the cardholder described in Section
4325 26B-4-213 who designated the applicant;
- 4326 (iii) if a medical cannabis guardian cardholder designated the caregiver, the name,
4327 gender, and age of the minor receiving a medical cannabis treatment in relation to the medical
4328 cannabis guardian cardholder; and
- 4329 (iv) any additional information that the department requests to assist in matching the
4330 application with the designating medical cannabis patient.
- 4331 (6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the
4332 department issues under this section is valid for the lesser of:
- 4333 (a) an amount of time that the cardholder described in Section 26B-4-213 who
4334 designated the caregiver determines; or

4335 (b) the amount of time remaining before the card of the cardholder described in Section
4336 26B-4-213 expires.

4337 (7) (a) If a designated caregiver meets the requirements of Subsection (4), the
4338 designated caregiver's medical cannabis caregiver card renews automatically at the time the
4339 cardholder described in Section 26B-4-213 who designated the caregiver:

4340 (i) renews the cardholder's card; and

4341 (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

4342 (b) The department shall provide a method in the card renewal process to allow a
4343 cardholder described in Section 26B-4-213 who has designated a caregiver to:

4344 (i) signify that the cardholder renews the caregiver's designation;

4345 (ii) remove a caregiver's designation; or

4346 (iii) designate a new caregiver.

4347 (8) The department shall record the issuance or revocation of a medical cannabis card
4348 under this section in the controlled substance database.

4349 Section 46. Section 26B-4-222 is amended to read:

4350 **26B-4-222. Report.**

4351 (1) By the November interim meeting each year, ~~[beginning in 2020,]~~ the department
4352 shall report to the Health and Human Services Interim Committee on:

4353 (a) the number of applications and renewal applications filed for medical cannabis
4354 cards;

4355 (b) the number of qualifying patients and designated caregivers;

4356 (c) the nature of the debilitating medical conditions of the qualifying patients;

4357 (d) the age and county of residence of cardholders;

4358 (e) the number of medical cannabis cards revoked;

4359 (f) the number of practitioners providing recommendations for qualifying patients;

4360 (g) the number of license applications and renewal license applications received;

4361 (h) the number of licenses the department has issued in each county;

4362 (i) the number of licenses the department has revoked;

4363 (j) the quantity of medical cannabis shipments that the state central patient portal
4364 facilitates;

4365 (k) the number of overall purchases of medical cannabis and medical cannabis products

4366 from each medical cannabis pharmacy;

4367 (1) the expenses incurred and revenues generated from the medical cannabis program;

4368 and

4369 (m) an analysis of product availability in medical cannabis pharmacies in

4370 [~~consultation~~] consultation with the Department of Agriculture and Food.

4371 (2) The report shall include information provided by the Center for Medical Cannabis

4372 Research described in Section [53B-17-1402](#).

4373 (3) The department may not include personally identifying information in the report

4374 described in this section.

4375 (4) The department shall report to the working group described in Section [36-12-8.2](#) as

4376 requested by the working group.

4377 Section 47. Section **26B-4-245** is amended to read:

4378 **26B-4-245. Purchasing and use limitations.**

4379 An individual with a medical cannabis card:

4380 (1) may purchase, in any one 28-day period, up to the legal dosage limit of:

4381 (a) unprocessed cannabis in a medicinal dosage form; and

4382 (b) a cannabis product in a medicinal dosage form;

4383 (2) may not purchase:

4384 (a) more medical cannabis than described in Subsection (1)(a); or

4385 (b) if the relevant recommending medical provider did not recommend directions of

4386 use and dosing guidelines, until the individual consults with the pharmacy medical provider in

4387 accordance with Subsection [~~26B-4-231(4)~~] [26B-4-231\(5\)](#), any medical cannabis; and

4388 [~~(3)~~] (c) may not use a route of administration that the relevant recommending medical

4389 provider or the pharmacy medical provider, in accordance with Subsection [~~26B-4-231(4)~~]

4390 [26B-4-231\(5\)](#), has not recommended.

4391 Section 48. Section **26B-4-701** is amended to read:

4392 **26B-4-701. Definitions.**

4393 As used in this part:

4394 (1) "Accredited clinical education program" means a clinical education program for a

4395 health care profession that is accredited by the Accreditation Council on Graduate Medical

4396 Education.

4397 (2) "Accredited clinical training program" means a clinical training program that is
 4398 accredited by an entity recognized within medical education circles as an accrediting body for
 4399 medical education, advanced practice nursing education, physician [~~assistance~~] assistant
 4400 education, doctor of pharmacy education, dental education, or registered nursing education.

4401 (3) "Centers for Medicare and Medicaid Services" means the Centers for Medicare and
 4402 Medicaid Services within the United States Department of Health and Human Services.

4403 (4) "Health care professionals in training" means medical students and residents,
 4404 [~~advance~~] advanced practice nursing students, physician assistant students, doctor of pharmacy
 4405 students, dental students, and registered nursing students.

4406 (5) "Hospital" means a general acute hospital, as defined in Section [26B-2-201](#).

4407 (6) "Physician" means a person:

4408 (a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

4409 (b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical
 4410 Practice Act.

4411 (7) "Rural county" means a county [~~with a population of less than 50,000, as~~
 4412 ~~determined by:~~] of the third, fourth, fifth, or sixth class under Section [17-50-501](#).

4413 [~~(a) the most recent official census or census estimate of the United States Bureau of~~
 4414 ~~the Census; or]~~

4415 [~~(b) the most recent population estimate for the county from the Utah Population~~
 4416 ~~Committee, if a population figure for the county is not available under Subsection (7)(a).]~~

4417 (8) "Rural hospital" means a hospital located within a rural county.

4418 (9) "UMEC" means the Utah Medical Education Council created in Section
 4419 [26B-4-706](#).

4420 Section 49. Section **26B-5-101** is amended to read:

4421 **26B-5-101. Chapter definitions.**

4422 As used in this chapter:

4423 (1) "Criminal risk factors" means a person's characteristics and behaviors that:

4424 (a) affect the person's risk of engaging in criminal behavior; and

4425 (b) are diminished when addressed by effective treatment, supervision, and other
 4426 support resources, resulting in reduced risk of criminal behavior.

4427 (2) "Director" means the director appointed under Section [26B-5-103](#).

- 4428 (3) "Division" means the Division of Integrated Healthcare created in Section
4429 ~~[26B-1-202]~~ [26B-1-1202](#).
- 4430 (4) "Local mental health authority" means a county legislative body.
- 4431 (5) "Local substance abuse authority" means a county legislative body.
- 4432 (6) "Mental health crisis" means:
- 4433 (a) a mental health condition that manifests in an individual by symptoms of sufficient
4434 severity that a prudent layperson who possesses an average knowledge of mental health issues
4435 could reasonably expect the absence of immediate attention or intervention to result in:
- 4436 (i) serious danger to the individual's health or well-being; or
4437 (ii) a danger to the health or well-being of others; or
- 4438 (b) a mental health condition that, in the opinion of a mental health therapist or the
4439 therapist's designee, requires direct professional observation or intervention.
- 4440 (7) "Mental health crisis response training" means community-based training that
4441 educates laypersons and professionals on the warning signs of a mental health crisis and how to
4442 respond.
- 4443 (8) "Mental health crisis services" means an array of services provided to an individual
4444 who experiences a mental health crisis, which may include:
- 4445 (a) direct mental health services;
4446 (b) on-site intervention provided by a mobile crisis outreach team;
4447 (c) the provision of safety and care plans;
4448 (d) prolonged mental health services for up to 90 days after the day on which an
4449 individual experiences a mental health crisis;
4450 (e) referrals to other community resources;
4451 (f) local mental health crisis lines; and
4452 (g) the statewide mental health crisis line.
- 4453 (9) "Mental health therapist" means the same as that term is defined in Section
4454 [58-60-102](#).
- 4455 (10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and
4456 mental health professionals that, in coordination with local law enforcement and emergency
4457 medical service personnel, provides mental health crisis services.
- 4458 (11) "Office" means the Office of Substance Use and Mental Health created in Section

4459 [26B-5-102](#).

4460 (12) (a) "Public funds" means federal money received from the department, and state
4461 money appropriated by the Legislature to the department, a county governing body, or a local
4462 substance abuse authority, or a local mental health authority for the purposes of providing
4463 substance abuse or mental health programs or services.

4464 (b) "Public funds" include federal and state money that has been transferred by a local
4465 substance abuse authority or a local mental health authority to a private provider under an
4466 annual or otherwise ongoing contract to provide comprehensive substance abuse or mental
4467 health programs or services for the local substance abuse authority or local mental health
4468 authority. The money maintains the nature of "public funds" while in the possession of the
4469 private entity that has an annual or otherwise ongoing contract with a local substance abuse
4470 authority or a local mental health authority to provide comprehensive substance use or mental
4471 health programs or services for the local substance abuse authority or local mental health
4472 authority.

4473 (c) Public funds received for the provision of services under substance use or mental
4474 health service plans may not be used for any other purpose except those authorized in the
4475 contract between the local mental health or substance abuse authority and provider for the
4476 provision of plan services.

4477 (13) "Severe mental disorder" means schizophrenia, major depression, bipolar
4478 disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by
4479 the division.

4480 (14) "Stabilization services" means in-home services provided to a child with, or who
4481 is at risk for, complex emotional and behavioral needs, including teaching the child's parent or
4482 guardian skills to improve family functioning.

4483 (15) "Statewide mental health crisis line" means the same as that term is defined in
4484 Section [26B-5-610](#).

4485 (16) "System of care" means a broad, flexible array of services and supports that:

4486 (a) serve a child with or who is at risk for complex emotional and behavioral needs;

4487 (b) are community based;

4488 (c) are informed about trauma;

4489 (d) build meaningful partnerships with families and children;

4490 (e) integrate service planning, service coordination, and management across state and
4491 local entities;

4492 (f) include individualized case planning;

4493 (g) provide management and policy infrastructure that supports a coordinated network
4494 of interdepartmental service providers, contractors, and service providers who are outside of
4495 the department; and

4496 (h) are guided by the type and variety of services needed by a child with or who is at
4497 risk for complex emotional and behavioral needs and by the child's family.

4498 Section 50. Section **26B-5-403** is amended to read:

4499 **26B-5-403. Residential and inpatient settings -- Commitment proceeding -- Child**
4500 **in physical custody of local mental health authority.**

4501 (1) A child may receive services from a local mental health authority in an inpatient or
4502 residential setting only after a commitment proceeding, for the purpose of transferring physical
4503 custody, has been conducted in accordance with the requirements of this section.

4504 (2) That commitment proceeding shall be initiated by a petition for commitment, and
4505 shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant
4506 to the procedures and requirements of this section. If the findings described in Subsection (4)
4507 exist, the proceeding shall result in the transfer of physical custody to the appropriate local
4508 mental health authority, and the child may be placed in an inpatient or residential setting.

4509 (3) The neutral and detached fact finder who conducts the inquiry:

4510 (a) shall be a designated examiner; and

4511 (b) may not profit, financially or otherwise, from the commitment or physical
4512 placement of the child in that setting.

4513 (4) Upon determination by a fact finder that the following circumstances clearly exist,
4514 the fact finder may order that the child be committed to the physical custody of a local mental
4515 health authority:

4516 (a) the child has a mental illness;

4517 (b) the child demonstrates a reasonable fear of the risk of substantial danger to self or
4518 others;

4519 (c) the child will benefit from care and treatment by the local mental health authority;
4520 and

4521 (d) there is no appropriate less-restrictive alternative.

4522 (5) (a) The commitment proceeding before the neutral and detached fact finder shall be
4523 conducted in as informal manner as possible and in a physical setting that is not likely to have a
4524 harmful effect on the child.

4525 (b) The child, the child's parent or legal guardian, the petitioner, and a representative of
4526 the appropriate local mental health authority:

4527 (i) shall receive informal notice of the date and time of the proceeding; and

4528 (ii) may appear and address the petition for commitment.

4529 (c) The neutral and detached fact finder may, in the fact finder's discretion, receive the
4530 testimony of any other person.

4531 (d) The fact finder may allow a child to waive the child's right to be present at the
4532 commitment proceeding, for good cause shown. If that right is waived, the purpose of the
4533 waiver shall be made a matter of record at the proceeding.

4534 (e) At the time of the commitment proceeding, the appropriate local mental health
4535 authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the
4536 commitment proceeding, shall provide the neutral and detached fact finder with the following
4537 information, as it relates to the period of current admission:

4538 (i) the petition for commitment;

4539 (ii) the admission notes;

4540 (iii) the child's diagnosis;

4541 (iv) physicians' orders;

4542 (v) progress notes;

4543 (vi) nursing notes; and

4544 (vii) medication records.

4545 (f) The information described in Subsection (5)(e) shall also be provided to the child's
4546 parent or legal guardian upon written request.

4547 (g) (i) The neutral and detached fact finder's decision of commitment shall state the
4548 duration of the commitment. Any commitment to the physical custody of a local mental health
4549 authority may not exceed 180 days. Prior to expiration of the commitment, and if further
4550 commitment is sought, a hearing shall be conducted in the same manner as the initial
4551 commitment proceeding, in accordance with the requirements of this section.

4552 (ii) At the conclusion of the hearing and subsequently in writing, when a decision for
4553 commitment is made, the neutral and detached fact finder shall inform the child and the child's
4554 parent or legal guardian of that decision and of the reasons for ordering commitment.

4555 (iii) The neutral and detached fact finder shall state in writing the basis of the decision,
4556 with specific reference to each of the criteria described in Subsection (4), as a matter of record.

4557 (6) A child may be temporarily committed for a maximum of 72 hours, excluding
4558 Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health
4559 authority in accordance with the procedures described in Section [26B-5-331](#) and upon
4560 satisfaction of the risk factors described in Subsection (4). A child who is temporarily
4561 committed shall be released at the expiration of the 72 hours unless the procedures and findings
4562 required by this section for the commitment of a child are satisfied.

4563 (7) A local mental health authority shall have physical custody of each child committed
4564 to it under this section. The parent or legal guardian of a child committed to the physical
4565 custody of a local mental health authority under this section, retains legal custody of the child,
4566 unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases
4567 when the Division of Child and Family Services or the Division of Juvenile Justice and Youth
4568 Services has legal custody of a child, that division shall retain legal custody for purposes of this
4569 part.

4570 (8) The cost of caring for and maintaining a child in the physical custody of a local
4571 mental health authority shall be assessed to and paid by the child's parents, according to their
4572 ability to pay. For purposes of this section, the Division of Child and Family Services or the
4573 Division of Juvenile Justice and Youth Services shall be financially responsible, in addition to
4574 the child's parents, if the child is in the legal custody of either of those divisions at the time the
4575 child is committed to the physical custody of a local mental health authority under this section,
4576 unless Medicaid regulation or contract provisions specify otherwise. The Office of Recovery
4577 Services shall assist those divisions in collecting the costs assessed pursuant to this section.

4578 (9) Whenever application is made for commitment of a minor to a local mental health
4579 authority under any provision of this section by a person other than the child's parent or
4580 guardian, the local mental health authority or its designee shall notify the child's parent or
4581 guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled
4582 proceeding.

4583 (10) (a) Each child committed pursuant to this section is entitled to an appeal within 30
4584 days after any order for commitment. The appeal may be brought on the child's own petition or
4585 on petition of the child's parent or legal guardian, to the juvenile court in the district where the
4586 child resides or is currently physically located. With regard to a child in the custody of the
4587 Division of Child and Family Services or the Division of Juvenile Justice and Youth Services,
4588 the attorney general's office shall handle the appeal, otherwise the appropriate county attorney's
4589 office is responsible for appeals brought pursuant to this Subsection (10)(a).

4590 (b) Upon receipt of the petition for appeal, the court shall appoint a designated
4591 examiner previously unrelated to the case, to conduct an examination of the child in accordance
4592 with the criteria described in Subsection (4), and file a written report with the court. The court
4593 shall then conduct an appeal hearing to determine whether the findings described in Subsection
4594 (4) exist by clear and convincing evidence.

4595 (c) Prior to the time of the appeal hearing, the appropriate local mental health authority,
4596 its designee, or the mental health professional who has been in charge of the child's care prior
4597 to commitment, shall provide the court and the designated examiner for the appeal hearing with
4598 the following information, as it relates to the period of current admission:

- 4599 (i) the original petition for commitment;
- 4600 (ii) admission notes;
- 4601 (iii) diagnosis;
- 4602 (iv) physicians' orders;
- 4603 (v) progress notes;
- 4604 (vi) nursing notes; and
- 4605 (vii) medication records.

4606 (d) Both the neutral and detached fact finder and the designated examiner appointed for
4607 the appeal hearing shall be provided with an opportunity to review the most current
4608 information described in Subsection (10)(c) prior to the appeal hearing.

4609 (e) The child, the child's parent or legal guardian, the person who submitted the
4610 original petition for commitment, and a representative of the appropriate local mental health
4611 authority shall be notified by the court of the date and time of the appeal hearing. Those
4612 persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the
4613 court shall review the record and findings of the neutral and detached fact finder, the report of

4614 the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion,
4615 allow or require the testimony of the neutral and detached fact finder, the designated examiner,
4616 the child, the child's parent or legal guardian, the person who brought the initial petition for
4617 commitment, or any other person whose testimony the court deems relevant. The court may
4618 allow the child to waive the right to appear at the appeal hearing, for good cause shown. If that
4619 waiver is granted, the purpose shall be made a part of the court's record.

4620 (11) Each local mental health authority has an affirmative duty to conduct periodic
4621 evaluations of the mental health and treatment progress of every child committed to its physical
4622 custody under this section, and to release any child who has sufficiently improved so that the
4623 criteria justifying commitment no longer exist.

4624 (12) (a) A local mental health authority or its designee, in conjunction with the child's
4625 current treating mental health professional may release an improved child to a less restrictive
4626 environment, as they determine appropriate. Whenever the local mental health authority or its
4627 designee, and the child's current treating mental health professional, determine that the
4628 conditions justifying commitment no longer exist, the child shall be discharged and released to
4629 the child's parent or legal guardian. With regard to a child who is in the physical custody of the
4630 State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the
4631 child's current treating mental health professional.

4632 (b) A local mental health authority or its designee, in conjunction with the child's
4633 current treating mental health professional, is authorized to issue a written order for the
4634 immediate placement of a child not previously released from an order of commitment into a
4635 more restrictive environment, if the local authority or its designee and the child's current
4636 treating mental health professional has reason to believe that the less restrictive environment in
4637 which the child has been placed is exacerbating the child's mental illness, or increasing the risk
4638 of harm to self or others.

4639 (c) The written order described in Subsection (12)(b) shall include the reasons for
4640 placement in a more restrictive environment and shall authorize any peace officer to take the
4641 child into physical custody and transport the child to a facility designated by the appropriate
4642 local mental health authority in conjunction with the child's current treating mental health
4643 professional. Prior to admission to the more restrictive environment, copies of the order shall
4644 be personally delivered to the child, the child's parent or legal guardian, the administrator of the

4645 more restrictive environment, or the administrator's designee, and the child's former treatment
4646 provider or facility.

4647 (d) If the child has been in a less restrictive environment for more than 30 days and is
4648 aggrieved by the change to a more restrictive environment, the child or the child's
4649 representative may request a review within 30 days of the change, by a neutral and detached
4650 fact finder as described in Subsection (3). The fact finder shall determine whether:

4651 (i) the less restrictive environment in which the child has been placed is exacerbating
4652 the child's mental illness or increasing the risk of harm to self or others; or

4653 (ii) the less restrictive environment in which the child has been placed is not
4654 exacerbating the child's mental illness or increasing the risk of harm to self or others, in which
4655 case the fact finder shall designate that the child remain in the less restrictive environment.

4656 (e) Nothing in this section prevents a local mental health authority or its designee, in
4657 conjunction with the child's current mental health professional, from discharging a child from
4658 commitment or from placing a child in an environment that is less restrictive than that
4659 designated by the neutral and detached fact finder.

4660 (13) Each local mental health authority or its designee, in conjunction with the child's
4661 current treating mental health professional shall discharge any child who, in the opinion of that
4662 local authority, or its designee, and the child's current treating mental health professional, no
4663 longer meets the criteria specified in Subsection (4), except as provided by Section [26B-5-405](#).
4664 The local authority and the mental health professional shall assure that any further supportive
4665 services required to meet the child's needs upon release will be provided.

4666 (14) Even though a child has been committed to the physical custody of a local mental
4667 health authority under this section, the child is still entitled to additional due process
4668 proceedings, in accordance with Section ~~[26B-5-704]~~ [26B-5-404](#), before any treatment that
4669 may affect a constitutionally protected liberty or privacy interest is administered. Those
4670 treatments include, but are not limited to, antipsychotic medication, electroshock therapy, and
4671 psychosurgery.

4672 Section 51. Section **26B-6-401** is amended to read:

4673 **26B-6-401. Definitions.**

4674 As used in this part:

4675 (1) "Approved provider" means a person approved by the division to provide

4676 [~~home-based~~] home- and community-based services.

4677 (2) "Board" means the Utah State Developmental Center Board created under Section
4678 26B-1-429.

4679 (3) (a) "Brain injury" means an acquired injury to the brain that is neurological in
4680 nature, including a cerebral vascular accident.

4681 (b) "Brain injury" does not include a deteriorating disease.

4682 (4) "Designated intellectual disability professional" means:

4683 (a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act,
4684 who:

4685 (i) (A) has at least one year of specialized training in working with persons with an
4686 intellectual disability; or

4687 (B) has at least one year of clinical experience with persons with an intellectual
4688 disability; and

4689 (ii) is designated by the division as specially qualified, by training and experience, in
4690 the treatment of an intellectual disability; or

4691 (b) a clinical social worker, certified social worker, marriage and family therapist, or
4692 professional counselor, licensed under Title 58, Chapter 60, Mental Health Professional
4693 Practice Act, who:

4694 (i) has at least two years of clinical experience with persons with an intellectual
4695 disability; and

4696 (ii) is designated by the division as specially qualified, by training and experience, in
4697 the treatment of an intellectual disability.

4698 (5) "Deteriorating disease" includes:

4699 (a) multiple sclerosis;

4700 (b) muscular dystrophy;

4701 (c) Huntington's chorea;

4702 (d) Alzheimer's disease;

4703 (e) ataxia; or

4704 (f) cancer.

4705 (6) "Developmental center" means the Utah State Developmental Center, established in
4706 accordance with Part 5, Utah State Developmental Center.

- 4707 (7) "Director" means the director of the Division of Services for People with
4708 Disabilities.
- 4709 (8) "Direct service worker" means a person who provides services to a person with a
4710 disability:
- 4711 (a) when the services are rendered in:
- 4712 (i) the physical presence of the person with a disability; or
4713 (ii) a location where the person rendering the services has access to the physical
4714 presence of the person with a disability; and
- 4715 (b) (i) under a contract with the division;
4716 (ii) under a grant agreement with the division; or
4717 (iii) as an employee of the division.
- 4718 (9) (a) "Disability" means a severe, chronic disability that:
- 4719 (i) is attributable to:
- 4720 (A) an intellectual disability;
4721 (B) a condition that qualifies a person as a person with a related condition, as defined
4722 in 42 C.F.R. Sec. 435.1010;
- 4723 (C) a physical disability; or
4724 (D) a brain injury;
- 4725 (ii) is likely to continue indefinitely;
- 4726 (iii) (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a
4727 substantial functional limitation in three or more of the following areas of major life activity:
- 4728 (I) self-care;
4729 (II) receptive and expressive language;
4730 (III) learning;
4731 (IV) mobility;
4732 (V) self-direction;
4733 (VI) capacity for independent living; or
4734 (VII) economic self-sufficiency; or
- 4735 (B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial
4736 limitation in three or more of the following areas:
- 4737 (I) memory or cognition;

- 4738 (II) activities of daily life;
- 4739 (III) judgment and self-protection;
- 4740 (IV) control of emotions;
- 4741 (V) communication;
- 4742 (VI) physical health; or
- 4743 (VII) employment; and
- 4744 (iv) requires a combination or sequence of special interdisciplinary or generic care,
- 4745 treatment, or other services that:
- 4746 (A) may continue throughout life; and
- 4747 (B) must be individually planned and coordinated.
- 4748 (b) "Disability" does not include a condition due solely to:
- 4749 (i) mental illness;
- 4750 (ii) personality disorder;
- 4751 (iii) deafness or being hard of hearing;
- 4752 (iv) visual impairment;
- 4753 (v) learning disability;
- 4754 (vi) behavior disorder;
- 4755 (vii) substance abuse; or
- 4756 (viii) the aging process.
- 4757 (10) "Division" means the Division of Services for People with Disabilities.
- 4758 (11) "Eligible to receive division services" or "eligibility" means qualification, based
- 4759 on criteria established by the division, to receive services that are administered by the division.
- 4760 (12) "Endorsed program" means a facility or program that:
- 4761 (a) is operated:
- 4762 (i) by the division; or
- 4763 (ii) under contract with the division; or
- 4764 (b) provides services to a person committed to the division under Part 6, Admission to
- 4765 an Intermediate Care Facility for People with an Intellectual Disability.
- 4766 (13) "Licensed physician" means:
- 4767 (a) an individual licensed to practice medicine under:
- 4768 (i) Title 58, Chapter 67, Utah Medical Practice Act; or

4769 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

4770 (b) a medical officer of the United States Government while in this state in the
4771 performance of official duties.

4772 (14) "Limited support services" means services that are administered by the division to
4773 individuals with a disability:

4774 (a) under a waiver authorized under 42 U.S.C. Sec. 1396n(c) by the Centers for
4775 Medicare and Medicaid Services that permits the division to limit services to an individual who
4776 is eligible to receive division services; and

4777 (b) through a program that:

4778 (i) was not operated by the division on or before January 1, 2020; and

4779 (ii) (A) limits the kinds of services that an individual may receive; or

4780 (B) sets a maximum total dollar amount for program services provided to each
4781 individual.

4782 (15) "Physical disability" means a medically determinable physical impairment that has
4783 resulted in the functional loss of two or more of a person's limbs.

4784 (16) "Public funds" means state or federal funds that are disbursed by the division.

4785 (17) "Resident" means an individual under observation, care, or treatment in an
4786 intermediate care facility for people with an intellectual disability.

4787 (18) "Sustainability fund" means the Utah State Developmental Center Long-Term
4788 Sustainability Fund created in Section [26B-1-331](#).

4789 Section 52. Section **26B-7-213** is amended to read:

4790 **26B-7-213. Sexually transmitted infections -- Examinations by authorities --**
4791 **Treatment of infected persons.**

4792 State, county, and municipal health officers within their respective jurisdictions may
4793 make examinations of persons reasonably suspected of being infected with [~~venerical disease~~]
4794 sexually transmitted infections. Persons infected with [~~venerical disease~~] sexually transmitted
4795 infections shall be required to report for treatment to either a reputable physician or physician
4796 assistant and continue treatment until cured or to submit to treatment provided at public
4797 expense until cured.

4798 Section 53. Section **26B-7-215** is amended to read:

4799 **26B-7-215. Sexually transmitted infections -- Examination and treatment of**

4800 **persons in prison or jail.**

4801 (1) (a) All persons confined in any state, county, or city prison or jail shall be
4802 examined, and if infected, treated for [~~venerical diseases~~] sexually transmitted infections by the
4803 health authorities.

4804 (b) The prison authorities of every state, county, or city prison or jail shall make
4805 available to the health authorities such portion of the prison or jail as may be necessary for a
4806 clinic or hospital wherein all persons suffering with [~~venerical disease~~] sexually transmitted
4807 infections at the time of the expiration of their terms of imprisonment, shall be isolated and
4808 treated at public expense until cured.

4809 (2) (a) The department may require persons suffering with [~~venerical disease~~] sexually
4810 transmitted infections at the time of the expiration of their terms of imprisonment to report for
4811 treatment to a licensed physician or physician assistant or submit to treatment provided at
4812 public expense in lieu of isolation.

4813 (b) Nothing in this section shall interfere with the service of any sentence imposed by a
4814 court as a punishment for the commission of crime.

4815 Section 54. Section **26B-8-201** is amended to read:

4816 **26B-8-201. Definitions.**

4817 As used in this part:

4818 (1) "Dead body" means the same as that term is defined in Section [26B-8-101](#).

4819 (2) (a) "Death by violence" means death that resulted by the decedent's exposure to
4820 physical, mechanical, or chemical forces.

4821 (b) "Death by violence" includes death that appears to have been due to homicide,
4822 death that occurred during or in an attempt to commit rape, mayhem, kidnapping, robbery,
4823 burglary, housebreaking, extortion, or blackmail accompanied by threats of violence, assault
4824 with a dangerous weapon, assault with intent to commit any offense punishable by
4825 imprisonment for more than one year, arson punishable by imprisonment for more than one
4826 year, or any attempt to commit any of the foregoing offenses.

4827 (3) "Immediate relative" means an individual's spouse, child, parent, sibling,
4828 grandparent, or grandchild.

4829 (4) "Health care professional" means any of the following while acting in a
4830 professional capacity:

4831 (a) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
4832 58, Chapter 68, Utah Osteopathic Medical Practice Act;

4833 (b) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
4834 Act; or

4835 (c) an advance practice registered nurse licensed under Subsection [58-31b-301\(2\)\(e\)](#).

4836 (5) "Medical examiner" means the state medical examiner appointed pursuant to
4837 Section [26B-8-202](#) or a deputy appointed by the medical examiner.

4838 (6) "Medical examiner record" means:

4839 (a) all information that the medical examiner obtains regarding a decedent; ~~[and]~~

4840 (b) reports that the medical examiner makes regarding a decedent~~[-];~~ and

4841 (c) all administrative forms and correspondence related to the decedent's case.

4842 (7) "Regional pathologist" means ~~[a-trained]~~ an American Board of Pathology certified
4843 pathologist licensed to practice medicine and surgery in the state, appointed by the medical
4844 examiner pursuant to Subsection [26B-8-202\(3\)](#).

4845 (8) "Sudden death while in apparent good health" means apparently instantaneous
4846 death without obvious natural cause, death during or following an unexplained syncope or
4847 coma, or death during an acute or unexplained rapidly fatal illness.

4848 (9) "Sudden ~~[infant death syndrome]~~ unexpected infant death" means the death of a
4849 child who was thought to be in good health or whose terminal illness appeared to be so mild
4850 that the possibility of a fatal outcome was not anticipated.

4851 (10) "Suicide" means death caused by an intentional and voluntary act of an individual
4852 who understands the physical nature of the act and intends by such act to accomplish
4853 self-destruction.

4854 (11) "Unattended death" means a death that occurs more than 365 days after the day on
4855 which a health care professional examined or treated the deceased individual for any purpose,
4856 including writing a prescription.

4857 (12) (a) "Unavailable for postmortem investigation" means that a dead body is:

4858 (i) transported out of state;

4859 (ii) buried at sea;

4860 (iii) cremated;

4861 (iv) processed by alkaline hydrolysis; or

4862 (v) otherwise made unavailable to the medical examiner for postmortem investigation
4863 or autopsy.

4864 (b) "Unavailable for postmortem investigation" does not include embalming or burial
4865 of a dead body pursuant to the requirements of law.

4866 (13) "Within the scope of the decedent's employment" means all acts reasonably
4867 necessary or incident to the performance of work, including matters of personal convenience
4868 and comfort not in conflict with specific instructions.

4869 Section 55. Section **26B-8-202** is amended to read:

4870 **26B-8-202. Chief medical examiner -- Appointment -- Qualifications -- Authority.**

4871 (1) The executive director[~~, with the advice of an advisory board consisting of the~~
4872 ~~chairman of the Department of Pathology at the University of Utah medical school and the~~
4873 ~~dean of the law school at the University of Utah,~~] shall appoint a chief medical examiner who
4874 shall be licensed to practice medicine in the state and shall meet the qualifications of a forensic
4875 pathologist, certified by the American Board of Pathology.

4876 (2) (a) The medical examiner shall serve at the will of the executive director.

4877 (b) The medical examiner has authority to:

4878 (i) employ medical, technical and clerical personnel as may be required to effectively
4879 administer this chapter, subject to the rules of the department and the state merit system;

4880 (ii) conduct investigations and pathological examinations;

4881 (iii) perform autopsies authorized in this title;

4882 (iv) conduct or authorize necessary examinations on dead bodies; and

4883 (v) notwithstanding the provisions of Subsection **26B-8-321**(3), retain tissues and
4884 biological samples:

4885 (A) for scientific purposes;

4886 (B) where necessary to accurately certify the cause and manner of death; or

4887 (C) for tissue from an unclaimed body, subject to Section **26B-8-225**, in order to
4888 donate the tissue or biological sample to an individual who is affiliated with an established
4889 search and rescue dog organization, for the purpose of training a dog to search for human
4890 remains.

4891 (c) In the case of an unidentified body, the medical examiner shall authorize or conduct
4892 investigations, tests and processes in order to determine its identity as well as the cause of

4893 death.

4894 (3) The medical examiner may appoint regional pathologists, each of whom shall be
4895 approved by the executive director.

4896 Section 56. Section **26B-8-203** is amended to read:

4897 **26B-8-203. County medical examiners.**

4898 The county executive, with the advice and consent of the county legislative body and
4899 approval of the chief medical examiner, may appoint medical examiners for their respective
4900 counties.

4901 Section 57. Section **26B-8-205** is amended to read:

4902 **26B-8-205. Jurisdiction of medical examiner.**

4903 Upon notification under Section **26B-8-206** or investigation by the medical examiner's
4904 office, the medical examiner shall assume [~~custody of~~] jurisdiction over a deceased body if it
4905 appears that death:

4906 (1) was by violence, gunshot, suicide, or accident;

4907 (2) was sudden death while in apparent good health;

4908 (3) occurred unattended, except that an autopsy may only be performed in accordance
4909 with the provisions of Subsection **26B-8-207(3)**;

4910 (4) occurred under suspicious or unusual circumstances;

4911 (5) resulted from poisoning or overdose of drugs;

4912 (6) resulted from a disease that may constitute a threat to the public health;

4913 (7) resulted from disease, injury, toxic effect, or unusual exertion incurred within the
4914 scope of the decedent's employment;

4915 (8) was due to [~~sudden infant death syndrome~~] sudden unexpected infant death;

4916 (9) occurred while the decedent was in prison, jail, police custody, the state hospital, or
4917 in a detention or medical facility operated for the treatment of persons with a mental illness,
4918 persons who are emotionally disturbed, or delinquent persons;

4919 (10) resulted directly from the actions of a law enforcement officer, as defined in
4920 Section **53-13-103**;

4921 (11) was associated with diagnostic or therapeutic procedures; or

4922 (12) was described in this section when request is made to assume custody by a county
4923 or district attorney or law enforcement agency in connection with a potential homicide

4924 investigation or prosecution.

4925 Section 58. Section **26B-8-207** is amended to read:

4926 **26B-8-207. Custody of dead body and personal effects -- Examination of scene of**
4927 **death -- Preservation of body -- Autopsies.**

4928 (1) (a) Upon notification of a death under Section **26B-8-206**, the medical examiner
4929 shall assume [~~custody of~~] jurisdiction over the deceased body, clothing on the body, biological
4930 samples taken, and any article on or near the body which may aid the medical examiner in
4931 determining the cause of death except those articles which will assist the investigative agency
4932 to proceed without delay with the investigation.

4933 (b) In all cases the scene of the event may not be disturbed until authorization is given
4934 by the senior ranking peace officer from the law enforcement agency having jurisdiction of the
4935 case and conducting the investigation.

4936 (c) Where death appears to have occurred under circumstances listed in Section
4937 **26B-8-205**, the person or persons finding or having custody of the body, or jurisdiction over
4938 the investigation of the death, shall take reasonable precautions to preserve the body and body
4939 fluids so that minimum deterioration takes place.

4940 (d) A person may not move a body [~~in the custody~~] under the jurisdiction of the
4941 medical examiner unless:

4942 (i) the medical examiner, or district attorney or county attorney that has criminal
4943 jurisdiction, authorizes the person to move the body;

4944 (ii) a designee of an individual listed in this Subsection (1)(d) authorizes the person to
4945 move the body;

4946 (iii) not moving the body would be an affront to public decency or impractical; or

4947 (iv) the medical examiner determines the cause of death is likely due to natural causes.

4948 (e) The body can under direction of the medical examiner or the medical examiner's
4949 designee be moved to a place specified by the medical examiner or the medical examiner's
4950 designee.

4951 (2) (a) If the medical examiner has [~~custody of~~] jurisdiction over a body, a person may
4952 not clean or embalm the body without first obtaining the medical examiner's permission.

4953 (b) An intentional or knowing violation of Subsection (2)(a) is a class B misdemeanor.

4954 (3) (a) When the medical examiner assumes lawful [~~custody of~~] jurisdiction over a

4955 body under Subsection 26B-8-205(3) solely because the death was unattended, an autopsy may
4956 not be performed unless requested by the district attorney, county attorney having criminal
4957 jurisdiction, or law enforcement agency having jurisdiction of the place where the body is
4958 found.

4959 (b) The county attorney or district attorney and law enforcement agency having
4960 jurisdiction shall consult with the medical examiner to determine the need for an autopsy.

4961 (c) If the deceased chose not to be seen or treated by a health care professional for a
4962 spiritual or religious reason, a district attorney, county attorney, or law enforcement agency,
4963 may not request an autopsy or inquest under Subsection (3)(a) solely because of the deceased's
4964 choice.

4965 (d) The medical examiner or medical examiner's designee may not conduct a requested
4966 autopsy described in Subsection (3)(a) if the medical examiner or medical examiner's designee
4967 determines:

4968 (i) the request violates Subsection (3)(c); or

4969 (ii) the cause of death can be determined without performing an autopsy.

4970 Section 59. Section 26B-8-210 is amended to read:

4971 **26B-8-210. Medical examiner to report death caused by prescribed controlled**
4972 **substance poisoning or overdose.**

4973 (1) If a medical examiner determines that the death of a person who is 12 years old or
4974 older at the time of death resulted from poisoning or overdose involving a [prescribed]
4975 controlled substance prescribed to the decedent, the medical examiner shall, within three
4976 business days after the day on which the medical examiner determines the cause of death, send
4977 a written report to the Division of Professional Licensing, created in Section 58-1-103, that
4978 includes:

4979 (a) the decedent's name;

4980 (b) each drug or other substance found in the decedent's system that may have
4981 contributed to the poisoning or overdose, if known; and

4982 (c) the name of each person the medical examiner has reason to believe may have
4983 prescribed a controlled substance described in Subsection (1)(b) to the decedent.

4984 (2) This section does not create a new cause of action.

4985 Section 60. Section 26B-8-217 is amended to read:

4986 **26B-8-217. Records of medical examiner -- Confidentiality.**

4987 (1) The medical examiner shall maintain complete, original records for the medical
4988 examiner record, which shall:

4989 (a) be properly indexed, giving the name, if known, or otherwise identifying every
4990 individual whose death is investigated;

4991 (b) indicate the place where the body was found;

4992 (c) indicate the date of death;

4993 (d) indicate the cause and manner of death;

4994 (e) indicate the occupation of the decedent, if available;

4995 (f) include all other relevant information concerning the death; and

4996 (g) include a full report and detailed findings of the autopsy or report of the
4997 investigation.

4998 (2) (a) Upon written request from an individual described in Subsections (2)(a)(i)
4999 through (iv), the medical examiner shall provide a copy of the ~~[medical examiner's final report~~
5000 ~~of examination for the decedent, including the]~~ autopsy report, toxicology report, lab reports,
5001 ~~[and]~~ investigative reports, documents generated by the medical examiner related to any report,
5002 and any other specifically requested portions of the medical examiner record, if any, to any of
5003 the following:

5004 (i) a decedent's immediate relative;

5005 (ii) a decedent's legal representative;

5006 (iii) a physician or physician assistant who attended the decedent during the year before
5007 the decedent's death; or

5008 (iv) a county attorney, a district attorney, a criminal defense attorney, or other law
5009 enforcement official with jurisdiction, as necessary for the performance of the attorney or
5010 official's professional duties.

5011 (b) ~~[Upon]~~ Subject to Subsection (c), upon written request from the director or a
5012 designee of the director of an entity described in Subsections (2)(b)(i) through (iv), the medical
5013 examiner may provide a copy of ~~[the of the medical examiner's final report of examination for~~
5014 ~~the decedent, including any other reports]~~ any medical examiner report or other portions of the
5015 medical examiner's record described in Subsection (2)(a), to any of the following entities as
5016 necessary for performance of the entity's official purposes:

- 5017 (i) a local health department;
- 5018 (ii) a local mental health authority;
- 5019 (iii) a public health authority; or
- 5020 (iv) another state or federal governmental agency.
- 5021 (c) The medical examiner may provide a copy of ~~[the medical examiner's final report~~
5022 ~~of examination, including any other reports]~~ a report or portion of the medical examiner's
5023 record described in Subsection (2)(a), if the ~~[final]~~ report or portion of the medical examiner's
5024 record relates to an issue of public health or safety, as further defined by rule made by the
5025 department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 5026 (3) Reports provided under Subsection (2) may not include records that the medical
5027 examiner obtains from a third party in the course of investigating the decedent's death.
- 5028 (4) The medical examiner may provide a medical examiner record to a researcher who:
- 5029 (a) has an advanced degree;
- 5030 (b) (i) is affiliated with an accredited college or university, a hospital, or another
5031 system of care, including an emergency medical response or a local health agency; or
5032 (ii) is part of a research firm contracted with an accredited college or university, a
5033 hospital, or another system of care;
- 5034 (c) requests a medical examiner record for a research project or a quality improvement
5035 initiative that will have a public health benefit, as determined by the department; and
- 5036 (d) provides to the medical examiner an approval from:
- 5037 (i) the researcher's sponsoring organization; and
- 5038 (ii) the Utah Department of Health and Human Services Institutional Review Board.
- 5039 (5) Records provided under Subsection (4) may not include a third party record, unless:
- 5040 (a) a court has ordered disclosure of the third party record; and
- 5041 (b) disclosure is conducted in compliance with state and federal law.
- 5042 (6) A person who obtains a medical examiner record under Subsection (4) shall:
- 5043 (a) maintain the confidentiality of the medical examiner record by removing personally
5044 identifying information about a decedent or the decedent's family and any other information
5045 that may be used to identify a decedent before using the medical examiner record in research;
- 5046 (b) conduct any research within and under the supervision of the Office of the Medical
5047 Examiner, if the medical examiner record contains a third party record with personally

5048 identifiable information;

5049 (c) limit the use of a medical examiner record to the purpose for which the person
5050 requested the medical examiner record;

5051 (d) destroy a medical examiner record and the data abstracted from the medical
5052 examiner record at the conclusion of the research for which the person requested the medical
5053 examiner record;

5054 (e) reimburse the medical examiner, as provided in Section 26B-1-209, for any costs
5055 incurred by the medical examiner in providing a medical examiner record;

5056 (f) allow the medical examiner to review, before public release, a publication in which
5057 data from a medical examiner record is referenced or analyzed; and

5058 (g) provide the medical examiner access to the researcher's database containing data
5059 from a medical examiner record, until the day on which the researcher permanently destroys
5060 the medical examiner record and all data obtained from the medical examiner record.

5061 (7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah
5062 Administrative Rulemaking Act, and in consideration of applicable state and federal law, to
5063 establish permissible uses and disclosures of a medical examiner record or other record
5064 obtained under this section.

5065 (8) Except as provided in this chapter or ordered by a court, the medical examiner may
5066 not disclose any part of a medical examiner record.

5067 (9) A person who obtains a medical examiner record under Subsection (4) is guilty of a
5068 class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a)
5069 through (d).

5070 Section 61. Section 26B-8-221 is amended to read:

5071 **26B-8-221. Authority of county attorney or district attorney to subpoena**
5072 **witnesses and compel testimony -- Determination if decedent died by unlawful means.**

5073 (1) The district attorney or county attorney having criminal jurisdiction may subpoena
5074 witnesses and compel testimony concerning the death of any person and have such testimony
5075 reduced to writing under his direction and may employ a [shorthand] court reporter for that
5076 purpose at the same compensation as is allowed to reporters in the district courts. When the
5077 testimony has been taken down by the [shorthand] court reporter, a transcript thereof, duly
5078 certified, shall constitute the deposition of the witness.

5079 (2) Upon review of all facts and testimony taken concerning the death of a person, the
5080 district attorney or county attorney having criminal jurisdiction shall determine if the decedent
5081 died by unlawful means and shall also determine if criminal prosecution shall be instituted.

5082 Section 62. Section **26B-8-223** is amended to read:

5083 **26B-8-223. Authority of examiner to provide organ or other tissue for transplant**
5084 **purposes.**

5085 (1) When requested by the licensed physician of a patient who is in need of an organ or
5086 other tissue for transplant purpose, by a legally created Utah eye bank, organ bank or medical
5087 facility, the medical examiner may provide an organ or other tissue if:

5088 (a) a decedent who may provide a suitable organ or other tissue for the transplant is in
5089 the custody of the medical examiner;

5090 (b) the medical examiner is assured that the requesting party has made reasonable
5091 search for and inquiry of next of kin of the decedent and that no objection by the next of kin is
5092 known by the requesting party; and

5093 (c) the removal of the organ or other tissue will not interfere with the investigation or
5094 autopsy or alter the post-mortem facial appearance.

5095 (2) When the medical examiner ~~[is in custody of]~~ has jurisdiction over a decedent who
5096 may provide a suitable organ or other tissue for transplant purposes, he may contact the
5097 appropriate eye bank, organ bank or medical facility and notify them concerning the suitability
5098 of the organ or other tissue. In such contact the medical examiner may disclose the name of the
5099 decedent so that necessary clearances can be obtained.

5100 (3) No person shall be held civilly or criminally liable for any acts performed pursuant
5101 to this section.

5102 Section 63. Section **26B-8-225** is amended to read:

5103 **26B-8-225. Burial of an unclaimed body -- Request by the school of medicine at**
5104 **the University of Utah -- Medical examiner may retain tissue for dog training.**

5105 (1) Except as described in Subsection (2) or (3), a county shall provide, at the county's
5106 expense, decent ~~[burial for]~~ disposition of an unclaimed body found in the county.

5107 (2) A county is not responsible for decent ~~[burial]~~ disposition of an unclaimed body
5108 found in the county if the body is requested by the dean of the school of medicine at the
5109 University of Utah under Section [53B-17-301](#).

5110 (3) For an unclaimed body that is temporarily in the medical examiner's custody before
5111 ~~[burial]~~ disposition under Subsection (1), the medical examiner may retain tissue from the
5112 unclaimed body in order to donate the tissue to an individual who is affiliated with an
5113 established search and rescue dog organization, for the purpose of training a dog to search for
5114 human remains.

5115 Section 64. Section **26B-8-227** is amended to read:

5116 **26B-8-227. Registry of unidentified deceased persons.**

5117 (1) If the identity of a deceased person over which the medical examiner has
5118 jurisdiction under Section **26B-8-205** is unknown, the medical examiner shall do the following
5119 ~~[before releasing the body to the county in which the body was found as provided in Section~~
5120 **26B-8-225**]:

5121 (a) assign a unique identifying number to the body;

5122 (b) create and maintain a file under the assigned number;

5123 (c) examine the body, take samples, and perform other related tasks for the purpose of
5124 deriving information that may be useful in ascertaining the identity of the deceased person;

5125 (d) use the identifying number in all records created by the medical examiner that
5126 pertains to the body;

5127 (e) record all information pertaining to the body in the file created and maintained
5128 under Subsection (1)(b);

5129 (f) communicate the unique identifying number to the county in which the body was
5130 found; and

5131 (g) access information from available government sources and databases in an attempt
5132 to ascertain the identity of the deceased person.

5133 ~~[(2) A county which has received a body to which Subsection (1) applies:]~~

5134 ~~[(a) shall adopt and use the same identifying number assigned by Subsection (1) in all~~
5135 ~~records created by the county that pertain to the body;]~~

5136 ~~[(b) require any funeral director or sexton who is involved in the disposition of the~~
5137 ~~body to adopt and use the same identifying number assigned by Subsection (1) in all records~~
5138 ~~created by the funeral director or sexton pertaining to the body; and]~~

5139 ~~[(c) shall provide a decent burial for the body.]~~

5140 ~~[(3) Within 30 days of receiving a body to which Subsection (1) applies, the county~~

5141 shall inform the medical examiner of the disposition of the body including the burial plot. The
5142 medical examiner shall record this information in the file created and maintained under
5143 Subsection (1)(b).]

5144 [~~(4)~~ The requirements of Subsections (1) and (6) apply to a county examiner appointed
5145 under Section ~~26B-8-203~~, with the additional requirements that the county examiner:]

5146 [(a) obtain a unique identifying number from the medical examiner for the body; and]

5147 [(b) send to the medical examiner a copy of the file created and maintained in
5148 accordance with Subsection (1)(b), including the disposition of the body and burial plot, within
5149 30 days of releasing the body.]

5150 [~~(5)~~ The medical examiner shall maintain a file received under Subsection (4) in the
5151 same way that it maintains a file created and maintained by the medical examiner in accordance
5152 with Subsection (1)(b).]

5153 [~~(6)~~ (2) The medical examiner shall cooperate and share information generated and
5154 maintained under this section with a person who demonstrates:

5155 (a) a legitimate personal or governmental interest in determining the identity of a
5156 deceased person; and

5157 (b) a reasonable belief that the body of that deceased person may have come into the
5158 custody of the medical examiner.

5159 Section 65. Section **26B-8-229** is amended to read:

5160 **26B-8-229. Psychological autopsy examiner.**

5161 (1) With funds appropriated by the Legislature for this purpose, the department shall
5162 provide compensation, at a standard rate determined by the department, to a psychological
5163 autopsy examiner.

5164 (2) The psychological autopsy examiner shall:

5165 (a) work with the medical examiner to compile data regarding suicide related deaths;

5166 (b) as relatives, associates, and acquaintances of the deceased are willing, gather
5167 information [~~from relatives of the deceased~~] regarding the [~~psychological reasons for~~]
5168 circumstances that preceded the decedent's death;

5169 (c) maintain a database of information described in Subsections (2)(a) and (b);

5170 (d) in accordance with all applicable privacy laws subject to approval by the
5171 department, share the database described in Subsection (2)(c) with the University of Utah

5172 Department of Psychiatry or other university-based departments conducting research on
5173 suicide;

5174 (e) coordinate no less than monthly with the suicide prevention coordinator described
5175 in Subsection 26B-5-611(2); and

5176 (f) coordinate no less than quarterly with the state suicide prevention coalition.

5177 Section 66. Section 34A-6-107 is amended to read:

5178 **34A-6-107. Research and related activities.**

5179 (1) (a) The division, after consultation with other appropriate agencies, shall conduct,
5180 directly or by grants or contracts, whether federal or otherwise, research, experiments, and
5181 demonstrations in the area of occupational safety and health, including studies of psychological
5182 factors involved in innovative methods, techniques, and approaches for dealing with
5183 occupational safety and health problems.

5184 (b) (i) The division, to comply with its responsibilities under this section, and to
5185 develop needed information regarding toxic substances or harmful physical agents, may make
5186 rules requiring employers to measure, record, and make reports on the exposure of employees
5187 to substances or physical agents reasonably believed to endanger the health or safety of
5188 employees.

5189 (ii) The division may establish programs for medical examinations and tests necessary
5190 for determining the incidence of occupational diseases and the susceptibility of employees to
5191 the diseases.

5192 (iii) Nothing in this chapter authorizes or requires a medical examination,
5193 immunization, or treatment for persons who object on religious grounds, except when
5194 necessary for the protection of the health or safety of others.

5195 (iv) Any employer who is required to measure and record employee exposure to
5196 substances or physical agents as provided under Subsection (1)(b) may receive full or partial
5197 financial or other assistance to defray additional expense incurred by measuring and recording
5198 as provided in this Subsection (1)(b).

5199 (c) (i) Following a written request by any employer or authorized representative of
5200 employees, specifying with reasonable particularity the grounds on which the request is made,
5201 the division shall determine whether any substance normally found in a workplace has toxic
5202 effects in the concentrations used or found, and shall submit its determination both to

5203 employers and affected employees as soon as possible.

5204 (ii) The division shall immediately take action necessary under Section 34A-6-202 or
5205 34A-6-305 if the division determines that:

5206 (A) any substance is toxic at the concentrations used or found in a workplace; and

5207 (B) the substance is not covered by an occupational safety or health standard
5208 promulgated under Section 34A-6-202.

5209 (2) The division may inspect and question employers and employees as provided in
5210 Section 34A-6-301, to carry out its functions and responsibilities under this section.

5211 (3) The division is authorized to enter into contracts, agreements, or other
5212 arrangements with appropriate federal or state agencies, or private organizations to conduct
5213 studies about its responsibilities under this chapter. In carrying out its responsibilities under
5214 this subsection, the division shall cooperate with the Department of ~~[Health]~~ Health and
5215 Human Services and the Department of Environmental Quality to avoid any duplication of
5216 efforts under this section.

5217 (4) Information obtained by the division under this section shall be disseminated to
5218 employers and employees and organizations of them.

5219 Section 67. Section 53-2a-802 is amended to read:

5220 **53-2a-802. Definitions.**

5221 (1) (a) "Absent" means:

5222 (i) not physically present or not able to be communicated with for 48 hours; or

5223 (ii) for local government officers, as defined by local ordinances.

5224 (b) "Absent" does not include a person who can be communicated with via telephone,
5225 radio, or telecommunications.

5226 (2) "Department" means the Department of Government Operations, the Department of
5227 Agriculture and Food, the Alcoholic Beverage Services Commission, the Department of
5228 Commerce, the Department of Cultural and Community Engagement, the Department of
5229 Corrections, the Department of Environmental Quality, the Department of Financial
5230 Institutions, the Department of ~~[Health]~~ Health and Human Services, the Department of
5231 Workforce Services, the Labor Commission, the National Guard, the Department of Insurance,
5232 the Department of Natural Resources, the Department of Public Safety, the Public Service
5233 Commission, ~~[the Department of Human Services,]~~ the State Tax Commission, the Department

5234 of Transportation, any other major administrative subdivisions of state government, the State
5235 Board of Education, the Utah Board of Higher Education, the Utah Housing Corporation, the
5236 State Retirement Board, and each institution of higher education within the system of higher
5237 education.

5238 (3) "Division" means the Division of Emergency Management established in Title 53,
5239 Chapter 2a, Part 1, Emergency Management Act.

5240 (4) "Emergency interim successor" means a person designated by this part to exercise
5241 the powers and discharge the duties of an office when the person legally exercising the powers
5242 and duties of the office is unavailable.

5243 (5) "Executive director" means the person with ultimate responsibility for managing
5244 and overseeing the operations of each department, however denominated.

5245 (6) (a) "Office" includes all state and local offices, the powers and duties of which are
5246 defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

5247 (b) "Office" does not include the office of governor or the legislative or judicial offices.

5248 (7) "Place of governance" means the physical location where the powers of an office
5249 are being exercised.

5250 (8) "Political subdivision" includes counties, cities, towns, metro townships, districts,
5251 authorities, and other public corporations and entities whether organized and existing under
5252 charter or general law.

5253 (9) "Political subdivision officer" means a person holding an office in a political
5254 subdivision.

5255 (10) "State officer" means the attorney general, the state treasurer, the state auditor, and
5256 the executive director of each department.

5257 (11) "Unavailable" means:

5258 (a) absent from the place of governance during a disaster that seriously disrupts normal
5259 governmental operations, whether or not that absence or inability would give rise to a vacancy
5260 under existing constitutional or statutory provisions; or

5261 (b) as otherwise defined by local ordinance.

5262 Section 68. Section **53-2d-404 (Effective 07/01/24)** is amended to read:

5263 **53-2d-404 (Effective 07/01/24). Permits for emergency medical service vehicles**
5264 **and nonemergency secured behavioral health transport vehicles.**

5265 (1) (a) To ensure that emergency medical service vehicles and nonemergency secured
5266 behavioral health transport vehicles are adequately staffed, safe, maintained, properly
5267 equipped, and safely operated, the committee shall establish permit requirements at levels it
5268 considers appropriate in the following categories:

- 5269 (i) ambulance;
5270 (ii) emergency medical response vehicle; and
5271 (iii) nonemergency secured behavioral health transport vehicle.

5272 (b) The permit requirements under Subsections (1)(a)(i) and (ii) shall include a
5273 requirement that [~~beginning on or after January 31, 2014,~~] every operator of an ambulance or
5274 emergency medical response vehicle annually provide proof of the successful completion of an
5275 emergency vehicle operator's course approved by the bureau for all ambulances and emergency
5276 medical response vehicle operators.

5277 (2) The bureau shall, based on the requirements established in Subsection (1), issue
5278 permits to emergency medical service vehicles and nonemergency secured behavioral health
5279 transport vehicles.

5280 Section 69. Section **53-2d-503 (Effective 07/01/24)** is amended to read:

5281 **53-2d-503 (Effective 07/01/24). Establishment of maximum rates.**

5282 (1) The bureau shall, after receiving recommendations under Subsection (2), establish
5283 maximum rates for ground ambulance providers and paramedic providers that are just and
5284 reasonable.

5285 (2) The committee may make recommendations to the bureau on the maximum rates
5286 that should be set under Subsection (1).

5287 (3) (a) [~~The bureau shall prohibit ground~~] Ground ambulance providers and paramedic
5288 providers [~~from charging~~] may not charge fees for transporting a patient when the provider
5289 does not transport the patient.

5290 (b) The provisions of Subsection (3)(a) do not apply to ambulance providers or
5291 paramedic providers in a geographic service area which contains a town as defined in
5292 Subsection [10-2-301\(2\)\(f\)](#).

5293 Section 70. Section **53-2d-703 (Effective 07/01/24)** is amended to read:

5294 **53-2d-703 (Effective 07/01/24). Volunteer Emergency Medical Service Personnel**
5295 **Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits --**

5296 **Rulemaking -- Advisory board.**

5297 (1) As used in this section:

5298 (a) "Health benefit plan" means the same as that term is defined in Section [31A-1-301](#).

5299 (b) "Local government entity" means a political subdivision that:

5300 (i) is licensed as a ground ambulance provider under Part 5, Ambulance and Paramedic
5301 Providers; and

5302 (ii) [~~as of January 1, 2022,~~] does not offer health insurance benefits to volunteer
5303 emergency medical service personnel.

5304 (c) "PEHP" means the Public Employees' Benefit and Insurance Program created in
5305 Section [49-20-103](#).

5306 (d) "Political subdivision" means a county, a municipality, a limited purpose
5307 government entity described in Title 17B, Limited Purpose Local Government Entities -
5308 Special Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or
5309 an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation
5310 Act.

5311 (e) "Qualifying association" means an association that represents two or more political
5312 subdivisions in the state.

5313 (2) The Volunteer Emergency Medical Service Personnel Health Insurance Program
5314 shall promote recruitment and retention of volunteer emergency medical service personnel by
5315 making health insurance available to volunteer emergency medical service personnel.

5316 (3) The bureau shall contract with a qualifying association to create, implement, and
5317 administer the Volunteer Emergency Medical Service Personnel Health Insurance Program
5318 described in this section.

5319 (4) Participation in the program is limited to emergency medical service personnel
5320 who:

5321 (a) are licensed under Section [53-2d-402](#) and are able to perform all necessary
5322 functions associated with the license;

5323 (b) provide emergency medical services under the direction of a local governmental
5324 entity:

5325 (i) by responding to 20% of calls for emergency medical services in a rolling
5326 twelve-month period;

5327 (ii) within a county of the third, fourth, fifth, or sixth class; and
5328 (iii) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R.
5329 Sec. 553.106;

5330 (c) are not eligible for a health benefit plan through an employer or a spouse's
5331 employer;

5332 (d) are not eligible for medical coverage under a government sponsored healthcare
5333 program; and

5334 (e) reside in the state.

5335 (5) (a) A participant in the program is eligible to participate in PEHP in accordance
5336 with Subsection (5)(b) and Subsection 49-20-201(3).

5337 (b) Benefits available to program participants under PEHP are limited to health
5338 insurance that:

5339 (i) covers the program participant and the program participant's eligible dependents on
5340 a July 1 plan year;

5341 (ii) accepts enrollment during an open enrollment period or for a special enrollment
5342 event, including the initial eligibility of a program participant;

5343 (iii) if the program participant is no longer eligible for benefits, terminates on the last
5344 day of the last month for which the individual is a participant in the Volunteer Emergency
5345 Medical Service Personnel Health Insurance Program; and

5346 (iv) is not subject to continuation rights under state or federal law.

5347 (6) (a) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah
5348 Administrative Rulemaking Act, to define additional criteria regarding benefit design and
5349 eligibility for the program.

5350 (b) The bureau shall convene an advisory board:

5351 (i) to advise the bureau on making rules under Subsection (6)(a); and
5352 (ii) that includes representation from at least the following entities:

5353 (A) the qualifying association that receives the contract under Subsection (3); and
5354 (B) PEHP.

5355 (7) For purposes of this section, the qualifying association that receives the contract
5356 under Subsection (3) shall be considered the public agency for whom the program participant is
5357 volunteering under 29 C.F.R. Sec. 553.101.

5358 Section 71. Section **53-10-404** is amended to read:

5359 **53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.**

5360 (1) As used in this section, "person" refers to any person as described under Section
5361 **53-10-403**.

5362 (2) (a) A person under Section **53-10-403** or any person required to register as a sex
5363 offender under Title 77, Chapter 41, Sex and Kidnap Offender Registry, shall provide a DNA
5364 specimen and shall reimburse the agency responsible for obtaining the DNA specimen \$150 for
5365 the cost of obtaining the DNA specimen unless:

5366 (i) the person was booked under Section **53-10-403** and is not required to reimburse the
5367 agency under Section **53-10-404.5**; or

5368 (ii) the agency determines the person lacks the ability to pay.

5369 (b) (i) (A) The responsible agencies shall establish guidelines and procedures for
5370 determining if the person is able to pay the fee.

5371 (B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to
5372 determine an inmate's ability to pay.

5373 (ii) An agency's guidelines and procedures may provide for the assessment of \$150 on
5374 the inmate's county trust fund account and may allow a negative balance in the account until
5375 the \$150 is paid in full.

5376 (3) (a) (i) All fees collected under Subsection (2) shall be deposited in the DNA
5377 Specimen Restricted Account created in Section **53-10-407**, except that the agency collecting
5378 the fee may retain not more than \$25 per individual specimen for the costs of obtaining the
5379 saliva DNA specimen.

5380 (ii) The agency collecting the \$150 fee may not retain from each separate fee more than
5381 \$25, and no amount of the \$150 fee may be credited to any other fee or agency obligation.

5382 (b) The responsible agency shall determine the method of collecting the DNA
5383 specimen. Unless the responsible agency determines there are substantial reasons for using a
5384 different method of collection or the person refuses to cooperate with the collection, the
5385 preferred method of collection shall be obtaining a saliva specimen.

5386 (c) The responsible agency may use reasonable force, as established by its guidelines
5387 and procedures, to collect the DNA sample if the person refuses to cooperate with the
5388 collection.

5389 (d) If the judgment places the person on probation, the person shall submit to the
5390 obtaining of a DNA specimen as a condition of the probation.

5391 (e) (i) Under this section a person is required to provide one DNA specimen and pay
5392 the collection fee as required under this section.

5393 (ii) The person shall provide an additional DNA specimen only if the DNA specimen
5394 previously provided is not adequate for analysis.

5395 (iii) The collection fee is not imposed for a second or subsequent DNA specimen
5396 collected under this section.

5397 (f) Any agency that is authorized to obtain a DNA specimen under this part may collect
5398 any outstanding amount of a fee due under this section from any person who owes any portion
5399 of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section
5400 [53-10-407](#).

5401 (4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as
5402 possible and transferred to the Department of Public Safety:

5403 (i) after a conviction or a finding of jurisdiction by the juvenile court;

5404 (ii) on and after January 1, 2011, through December 31, 2014, after the booking of a
5405 person for any offense under Subsection [53-10-403\(1\)\(c\)](#); and

5406 (iii) on and after January 1, 2015, after the booking of a person for any felony offense,
5407 as provided under Subsection [53-10-403\(1\)\(d\)\(ii\)](#).

5408 (b) On and after May 13, 2014, through December 31, 2014, the responsible agency
5409 may cause a DNA specimen to be obtained and transferred to the Department of Public Safety
5410 after the booking of a person for any felony offense, as provided under Subsection
5411 [53-10-403\(1\)\(d\)\(i\)](#).

5412 (c) If notified by the Department of Public Safety that a DNA specimen is not adequate
5413 for analysis, the agency shall, as soon as possible:

5414 (i) obtain and transmit an additional DNA specimen; or

5415 (ii) request that another agency that has direct access to the person and that is
5416 authorized to collect DNA specimens under this section collect the necessary second DNA
5417 specimen and transmit it to the Department of Public Safety.

5418 (d) Each agency that is responsible for collecting DNA specimens under this section
5419 shall establish:

- 5420 (i) a tracking procedure to record the handling and transfer of each DNA specimen it
5421 obtains; and
- 5422 (ii) a procedure to account for the management of all fees it collects under this section.
- 5423 (5) (a) The Department of Corrections is the responsible agency whenever the person is
5424 committed to the custody of or is under the supervision of the Department of Corrections.
- 5425 (b) The juvenile court is the responsible agency regarding a minor under Subsection
5426 ~~53-10-403~~(3), but if the minor has been committed to the legal custody of the [~~Division of~~
5427 ~~Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services, that division is the
5428 responsible agency if a DNA specimen of the minor has not previously been obtained by the
5429 juvenile court under Section ~~80-6-608~~.
- 5430 (c) The sheriff operating a county jail is the responsible agency regarding the collection
5431 of DNA specimens from persons who:
- 5432 (i) have pled guilty to or have been convicted of an offense listed under Subsection
5433 ~~53-10-403~~(2) but who have not been committed to the custody of or are not under the
5434 supervision of the Department of Corrections;
- 5435 (ii) are incarcerated in the county jail:
- 5436 (A) as a condition of probation for a felony offense; or
- 5437 (B) for a misdemeanor offense for which collection of a DNA specimen is required;
- 5438 (iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail
5439 for any offense under Subsection ~~53-10-403~~(1)(c).; and
- 5440 (iv) are booked at the county jail:
- 5441 (A) by a law enforcement agency that is obtaining a DNA specimen for any felony
5442 offense on or after May 13, 2014, through December 31, 2014, under Subsection
5443 ~~53-10-404~~(4)(b); or
- 5444 (B) on or after January 1, 2015, for any felony offense.
- 5445 (d) Each agency required to collect a DNA specimen under this section shall:
- 5446 (i) designate employees to obtain the saliva DNA specimens required under this
5447 section; and
- 5448 (ii) ensure that employees designated to collect the DNA specimens receive appropriate
5449 training and that the specimens are obtained in accordance with generally accepted protocol.
- 5450 (6) (a) As used in this Subsection (6), "department" means the Department of

5451 Corrections.

5452 (b) Priority of obtaining DNA specimens by the department is:

5453 (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody
5454 of or under the supervision of the department before these persons are released from
5455 incarceration, parole, or probation, if their release date is prior to that of persons under
5456 Subsection (6)(b)(ii), but in no case later than July 1, 2004; and

5457 (ii) second, the department shall obtain DNA specimens from persons who are
5458 committed to the custody of the department or who are placed under the supervision of the
5459 department after July 1, 2002, within 120 days after the commitment, if possible, but not later
5460 than prior to release from incarceration if the person is imprisoned, or prior to the termination
5461 of probation if the person is placed on probation.

5462 (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii)
5463 is:

5464 (i) first, persons on probation;

5465 (ii) second, persons on parole; and

5466 (iii) third, incarcerated persons.

5467 (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the
5468 priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA
5469 specimens from persons in the custody of or under the supervision of the Department of
5470 Corrections as of July 1, 2002, prior to their release.

5471 (7) (a) As used in this Subsection (7):

5472 (i) "Court" means the juvenile court.

5473 (ii) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile
5474 Justice and Youth Services.

5475 (b) Priority of obtaining DNA specimens by the court from minors under Section
5476 [53-10-403](#) whose cases are under the jurisdiction of the court but who are not in the legal
5477 custody of the division shall be:

5478 (i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under the
5479 court's jurisdiction, before the court's jurisdiction over the minors' cases terminates; and

5480 (ii) second, to obtain specimens from minors whose cases are under the jurisdiction of
5481 the court after July 1, 2002, within 120 days of the minor's case being found to be within the

5482 court's jurisdiction, if possible, but no later than before the court's jurisdiction over the minor's
5483 case terminates.

5484 (c) Priority of obtaining DNA specimens by the division from minors under Section
5485 [53-10-403](#) who are committed to the legal custody of the division shall be:

5486 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the
5487 division's legal custody and who have not previously provided a DNA specimen under this
5488 section, before termination of the division's legal custody of these minors; and

5489 (ii) second, to obtain specimens from minors who are placed in the legal custody of the
5490 division after July 1, 2002, within 120 days of the minor's being placed in the custody of the
5491 division, if possible, but no later than before the termination of the court's jurisdiction over the
5492 minor's case.

5493 (8) (a) The Department of Corrections, the juvenile court, the [~~Division of Juvenile~~
5494 ~~Justice Services~~] Division of Juvenile Justice and Youth Services, and all law enforcement
5495 agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens,
5496 and shall provide training for employees designated to collect saliva DNA specimens.

5497 (b) (i) The department may designate correctional officers, including those employed
5498 by the adult probation and parole section of the department, to obtain the saliva DNA
5499 specimens required under this section.

5500 (ii) The department shall ensure that the designated employees receive appropriate
5501 training and that the specimens are obtained in accordance with accepted protocol.

5502 (c) Blood DNA specimens shall be obtained in accordance with Section [53-10-405](#).
5503 Section 72. Section **53-10-407** is amended to read:

5504 **53-10-407. DNA Specimen Restricted Account.**

5505 (1) There is created the DNA Specimen Restricted Account, which is referred to in this
5506 section as "the account."

5507 (2) The sources of money for the account are:

5508 (a) DNA collection fees paid under Section [53-10-404](#);

5509 (b) any appropriations made to the account by the Legislature; and

5510 (c) all federal money provided to the state for the purpose of funding the collection or
5511 analysis of DNA specimens collected under Section [53-10-403](#).

5512 (3) The account shall earn interest, and this interest shall be deposited in the account.

5513 (4) The Legislature may appropriate money from the account solely for the following
5514 purposes:

5515 (a) to the Department of Corrections for the costs of collecting DNA specimens as
5516 required under Section 53-10-403;

5517 (b) to the juvenile court for the costs of collecting DNA specimens as required under
5518 Sections 53-10-403 and 80-6-608;

5519 (c) to the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and
5520 Youth Services for the costs of collecting DNA specimens as required under Sections
5521 53-10-403 and 80-5-201; and

5522 (d) to the Department of Public Safety for the costs of:

5523 (i) storing and analyzing DNA specimens in accordance with the requirements of this
5524 part;

5525 (ii) DNA testing which cannot be performed by the Utah State Crime Lab, as provided
5526 in Subsection 78B-9-301(7); and

5527 (iii) reimbursing sheriffs for collecting the DNA specimens as provided under Sections
5528 53-10-404 and 53-10-404.5.

5529 (5) Appropriations from the account to the Department of Corrections, the juvenile
5530 court, the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth
5531 Services, and to the Department of Public Safety are nonlapsing.

5532 Section 73. Section 53E-10-301 is amended to read:

5533 **53E-10-301. Definitions.**

5534 As used in this part:

5535 (1) "Career and technical education course" means a concurrent enrollment course in
5536 career and technical education, as determined by the policy established by the Utah Board of
5537 Higher Education under Section 53E-10-302.

5538 (2) "Concurrent enrollment" means enrollment in a course offered through the
5539 concurrent enrollment program described in Section 53E-10-302.

5540 (3) "Educator" means the same as that term is defined in Section 53E-6-102.

5541 (4) "Eligible instructor" means an instructor who meets the requirements described in
5542 Subsection 53E-10-302(6).

5543 (5) "Eligible student" means a student who:

5544 (a) (i) is enrolled in, and counted in average daily membership in, a public school
5545 within the state; or

5546 (ii) is in the custody of the [~~Division of Juvenile Justice Services~~] Division of Juvenile
5547 Justice and Youth Services and subject to the jurisdiction of the Youth Parole Authority;

5548 (b) has on file a plan for college and career readiness as described in Section
5549 53E-2-304; and

5550 (c) is in grade 9, 10, 11, or 12.

5551 (6) "Institution of higher education" means an institution described in Subsection
5552 53B-1-102(1)(a).

5553 (7) "License" means the same as that term is defined in Section 53E-6-102.

5554 (8) "Local education agency" or "LEA" means a school district or charter school.

5555 (9) "Qualifying experience" means an LEA employee's experience in an academic field
5556 that:

5557 (a) qualifies the LEA employee to teach a concurrent enrollment course in the
5558 academic field; and

5559 (b) may include the LEA employee's:

5560 (i) number of years teaching in the academic field;

5561 (ii) holding a higher level secondary teaching credential issued by the state board;

5562 (iii) research, publications, or other scholarly work in the academic field;

5563 (iv) continuing professional education in the academic field;

5564 (v) portfolio of work related to the academic field; or

5565 (vi) professional work experience or certifications in the academic field.

5566 (10) "Value of the weighted pupil unit" means the amount established each year in the
5567 enacted public education budget that is multiplied by the number of weighted pupil units to
5568 yield the funding level for the basic state-supported school program.

5569 Section 74. Section **53G-8-211** is amended to read:

5570 **53G-8-211. Responses to school-based behavior.**

5571 (1) As used in this section:

5572 (a) "Evidence-based" means a program or practice that has:

5573 (i) had multiple randomized control studies or a meta-analysis demonstrating that the
5574 program or practice is effective for a specific population;

- 5575 (ii) been rated as effective by a standardized program evaluation tool; or
5576 (iii) been approved by the state board.
- 5577 (b) "Habitual truant" means a school-age child who:
5578 (i) is in grade 7 or above, unless the school-age child is under 12 years old;
5579 (ii) is subject to the requirements of Section [53G-6-202](#); and
5580 (iii) (A) is truant at least 10 times during one school year; or
5581 (B) fails to cooperate with efforts on the part of school authorities to resolve the
5582 school-age child's attendance problem as required under Section [53G-6-206](#).
5583 (c) "Minor" means the same as that term is defined in Section [80-1-102](#).
5584 (d) "Mobile crisis outreach team" means the same as that term is defined in Section
5585 [\[62A-15-102\]](#) [26B-5-101](#).
5586 (e) "Prosecuting attorney" means the same as that term is defined in Subsections
5587 [80-1-102\(65\)\(b\)](#) and (c).
5588 (f) "Restorative justice program" means a school-based program or a program used or
5589 adopted by a local education agency that is designed:
5590 (i) to enhance school safety, reduce school suspensions, and limit referrals to law
5591 enforcement agencies and courts; and
5592 (ii) to help minors take responsibility for and repair harmful behavior that occurs in
5593 school.
5594 (g) "School administrator" means a principal of a school.
5595 (h) "School is in session" means a day during which the school conducts instruction for
5596 which student attendance is counted toward calculating average daily membership.
5597 (i) "School resource officer" means a law enforcement officer, as defined in Section
5598 [53-13-103](#), who contracts with, is employed by, or whose law enforcement agency contracts
5599 with a local education agency to provide law enforcement services for the local education
5600 agency.
5601 (j) "School-age child" means the same as that term is defined in Section [53G-6-201](#).
5602 (k) (i) "School-sponsored activity" means an activity, fundraising event, club, camp,
5603 clinic, or other event or activity that is authorized by a specific local education agency or public
5604 school, according to LEA governing board policy, and satisfies at least one of the following
5605 conditions:

5606 (A) the activity is managed or supervised by a local education agency or public school,
5607 or local education agency or public school employee;

5608 (B) the activity uses the local education agency's or public school's facilities,
5609 equipment, or other school resources; or

5610 (C) the activity is supported or subsidized, more than inconsequentially, by public
5611 funds, including the public school's activity funds or Minimum School Program dollars.

5612 (ii) "School-sponsored activity" includes preparation for and involvement in a public
5613 performance, contest, athletic competition, demonstration, display, or club activity.

5614 (1) (i) "Status offense" means an offense that would not be an offense but for the age of
5615 the offender.

5616 (ii) "Status offense" does not mean an offense that by statute is a misdemeanor or
5617 felony.

5618 (2) This section applies to a minor enrolled in school who is alleged to have committed
5619 an offense on school property where the student is enrolled:

5620 (a) when school is in session; or

5621 (b) during a school-sponsored activity.

5622 (3) If a minor is alleged to have committed an offense on school property that is a class
5623 C misdemeanor, an infraction, or a status offense, the school administrator, the school
5624 administrator's designee, or a school resource officer may refer the minor:

5625 (a) to an evidence-based alternative intervention, including:

5626 (i) a mobile crisis outreach team;

5627 (ii) a youth services center, as defined in Section 80-5-102;

5628 (iii) a youth court or comparable restorative justice program;

5629 (iv) an evidence-based alternative intervention created and developed by the school or
5630 school district;

5631 (v) an evidence-based alternative intervention that is jointly created and developed by a
5632 local education agency, the state board, the juvenile court, local counties and municipalities,
5633 the Department of Health and Human Services; or

5634 (vi) a tobacco cessation or education program if the offense is a violation of Section
5635 76-10-105; or

5636 (b) for prevention and early intervention youth services, as described in Section

5637 80-5-201, by the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth
5638 Services if the minor refuses to participate in an evidence-based alternative intervention
5639 described in Subsection (3)(a).

5640 (4) Except as provided in Subsection (5), if a minor is alleged to have committed an
5641 offense on school property that is a class C misdemeanor, an infraction, or a status offense, a
5642 school administrator, the school administrator's designee, or a school resource officer may refer
5643 a minor to a law enforcement officer or agency or a court only if:

5644 (a) the minor allegedly committed the same offense on school property on two previous
5645 occasions; and

5646 (b) the minor was referred to an evidence-based alternative intervention, or to
5647 prevention or early intervention youth services, as described in Subsection (3) for both of the
5648 two previous offenses.

5649 (5) If a minor is alleged to have committed a traffic offense that is an infraction, a
5650 school administrator, the school administrator's designee, or a school resource officer may refer
5651 the minor to a law enforcement officer or agency, a prosecuting attorney, or a court for the
5652 traffic offense.

5653 (6) Notwithstanding Subsection (4), a school resource officer may:

5654 (a) investigate possible criminal offenses and conduct, including conducting probable
5655 cause searches;

5656 (b) consult with school administration about the conduct of a minor enrolled in a
5657 school;

5658 (c) transport a minor enrolled in a school to a location if the location is permitted by
5659 law;

5660 (d) take temporary custody of a minor in accordance with Section 80-6-201; or

5661 (e) protect the safety of students and the school community, including the use of
5662 reasonable and necessary physical force when appropriate based on the totality of the
5663 circumstances.

5664 (7) (a) If a minor is referred to a court or a law enforcement officer or agency under
5665 Subsection (4), the school or the school district shall appoint a school representative to
5666 continue to engage with the minor and the minor's family through the court process.

5667 (b) A school representative appointed under Subsection (7)(a) may not be a school

5668 resource officer.

5669 (c) A school district or school shall include the following in the school district's or
5670 school's referral to the court or the law enforcement officer or agency:

5671 (i) attendance records for the minor;

5672 (ii) a report of evidence-based alternative interventions used by the school before the
5673 referral, including outcomes;

5674 (iii) the name and contact information of the school representative assigned to actively
5675 participate in the court process with the minor and the minor's family;

5676 (iv) if the minor was referred to prevention or early intervention youth services under
5677 Subsection (3)(b), a report from the [~~Division of Juvenile Justice Services~~] Division of Juvenile
5678 Justice and Youth Services that demonstrates the minor's failure to complete or participate in
5679 prevention and early intervention youth services under Subsection (3)(b); and

5680 (v) any other information that the school district or school considers relevant.

5681 (d) A minor referred to a court under Subsection (4) may not be ordered to or placed in
5682 secure detention, including for a contempt charge or violation of a valid court order under
5683 Section 78A-6-353, when the underlying offense is a status offense or infraction.

5684 (e) If a minor is referred to a court under Subsection (4), the court may use, when
5685 available, the resources of the [~~Division of Juvenile Justice Services~~] Division of Juvenile
5686 Justice and Youth Services or the [~~Division of Substance Abuse and Mental Health~~] Office of
5687 Substance Use and Mental Health to address the minor.

5688 (8) If a minor is alleged to have committed an offense on school property that is a class
5689 B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's
5690 designee, or a school resource officer may refer the minor directly to a court or to the
5691 evidence-based alternative interventions in Subsection (3)(a).

5692 Section 75. Section **53G-8-213** is amended to read:

5693 **53G-8-213. Reintegration plan for student alleged to have committed violent**
5694 **felony or weapon offense.**

5695 (1) As used in this section:

5696 (a) "Multidisciplinary team" means the local education agency, the juvenile court, the
5697 [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services, a
5698 school resource officer if applicable, and any other relevant party that should be involved in a

5699 reintegration plan.

5700 (b) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

5701 (2) If a school district receives a notification from the juvenile court or a law
5702 enforcement agency that a student was arrested for, charged with, or adjudicated in the juvenile
5703 court for a violent felony or an offense in violation of Title 76, Chapter 10, Part 5, Weapons,
5704 the school shall develop a reintegration plan for the student with a multidisciplinary team, the
5705 student, and the student's parent or guardian, within five days after the day on which the school
5706 receives a notification.

5707 (3) The school may deny admission to the student until the school completes the
5708 reintegration plan under Subsection (2).

5709 (4) The reintegration plan under Subsection (2) shall address:

5710 (a) a behavioral intervention for the student;

5711 (b) a short-term mental health or counseling service for the student; and

5712 (c) an academic intervention for the student.

5713 Section 76. Section 53G-10-406 is amended to read:

5714 **53G-10-406. Underage Drinking and Substance Abuse Prevention Program --**

5715 **State board rules.**

5716 (1) As used in this section:

5717 (a) "Advisory council" means the Underage Drinking and Substance Abuse Prevention
5718 Program Advisory Council created in this section.

5719 (b) "Program" means the Underage Drinking and Substance Abuse Prevention Program
5720 created in this section.

5721 (c) "School-based prevention program" means an evidence-based program that:

5722 (i) is aimed at preventing underage consumption of alcohol and underage use of
5723 electronic cigarette products;

5724 (ii) is delivered by methods that engage students in storytelling and visualization;

5725 (iii) addresses the behavioral risk factors associated with underage drinking and use of
5726 electronic cigarette products; and

5727 (iv) provides practical tools to address the dangers of underage drinking and use of
5728 electronic cigarette products.

5729 (2) There is created the Underage Drinking and Substance Abuse Prevention Program

5730 that consists of:

5731 (a) a school-based prevention program for students in grade 4 or 5;

5732 (b) a school-based prevention program for students in grade 7 or 8; and

5733 (c) a school-based prevention program for students in grade 9 or 10 that increases

5734 awareness of the dangers of driving under the influence of alcohol.

5735 (3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each

5736 school year to each student in grade 7 or 8 and grade 9 or 10.

5737 (b) In addition to Subsection (3)(a), beginning with the 2020-21 school year, an LEA

5738 shall offer the program each school year to each student in grade 4 or 5.

5739 (c) An LEA shall select from the providers qualified by the state board under

5740 Subsection (6) to offer the program.

5741 (4) The state board shall administer the program with input from the advisory council.

5742 (5) There is created the Underage Drinking and Substance Abuse Prevention Program

5743 Advisory Council comprised of the following members:

5744 (a) the executive director of the Department of Alcoholic Beverage Services or the
5745 executive director's designee;

5746 (b) the executive director of the Department of Health and Human Services or the
5747 executive director's designee;

5748 (c) the director of the [~~Division of Substance Abuse and Mental Health~~] Office of
5749 Substance Use and Mental Health or the director's designee;

5750 (d) the director of the Division of Child and Family Services or the director's designee;

5751 (e) the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile
5752 Justice and Youth Services or the director's designee;

5753 (f) the state superintendent or the state superintendent's designee; and

5754 (g) two members of the state board, appointed by the chair of the state board.

5755 (6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state

5756 board shall qualify one or more providers to provide the program to an LEA.

5757 (b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

5758 (i) whether the provider's program complies with the requirements described in this
5759 section;

5760 (ii) the extent to which the provider's prevention program aligns with core standards for

5761 Utah public schools; and

5762 (iii) the provider's experience in providing a program that is effective.

5763 (7) (a) The state board shall use money from the Underage Drinking and Substance
5764 Abuse Prevention Program Restricted Account described in Section 53F-9-304 for the
5765 program.

5766 (b) The state board may use money from the Underage Drinking Prevention Program
5767 Restricted Account to fund up to .5 of a full-time equivalent position to administer the
5768 program.

5769 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5770 state board shall make rules that:

5771 (a) beginning with the 2018-19 school year, require an LEA to offer the Underage
5772 Drinking and Substance Abuse Prevention Program each school year to each student in grade 7
5773 or 8 and grade 9 or 10;

5774 (b) beginning with the 2020-21 school year, require an LEA to offer the Underage
5775 Drinking and Substance Abuse Prevention Program each school year to each student in grade 4
5776 or 5; and

5777 (c) establish criteria for the state board to use in selecting a provider described in
5778 Subsection (6).

5779 Section 77. Section 58-17b-309.7 is amended to read:

5780 **58-17b-309.7. Opioid treatment program.**

5781 (1) As used in this section:

5782 (a) "Covered provider" means an individual who is licensed to engage in:

5783 (i) the practice of advanced practice registered nursing as defined in Section
5784 58-31b-102;

5785 (ii) the practice of registered nursing as defined in Section 58-31b-102; or

5786 (iii) practice as a physician assistant as defined in Section 58-70a-102.

5787 (b) "Opioid treatment program" means a program or practitioner that is:

5788 (i) engaged in dispensing an opiate medication assisted treatment for opioid use
5789 disorder;

5790 (ii) registered under 21 U.S.C. Sec. 823(g)(1);

5791 (iii) licensed by the ~~[Office of Licensing]~~ Division of Licensing and Background

5792 Checks within the Department of Health and Human Services created in Section 26B-2-103;
5793 and

5794 (iv) certified by the federal Substance Abuse and Mental Health Services
5795 Administration in accordance with 42 C.F.R. 8.11.

5796 (2) A covered provider may dispense opiate medication assisted treatment at an opioid
5797 treatment program if the covered provider:

5798 (a) is operating under the direction of a pharmacist;

5799 (b) dispenses the opiate medication assisted treatment under the direction of a
5800 pharmacist; and

5801 (c) acts in accordance with division rule made under Subsection (3).

5802 (3) The division shall, in consultation with practitioners who work in an opioid
5803 treatment program, make rules in accordance with Title 63G, Chapter 3, Utah Administrative
5804 Rulemaking Act, to establish guidelines under which a covered provider may dispense opiate
5805 medication assisted treatment to a patient in an opioid treatment program under this section.

5806 Section 78. Section **58-17b-620** is amended to read:

5807 **58-17b-620. Prescriptions issued within the public health system.**

5808 (1) As used in this section:

5809 (a) "Department of Health and Human Services" means the Department of Health and
5810 Human Services created in Section 26B-1-201.

5811 (b) "Health department" means either the Department of Health and Human Services or
5812 a local health department.

5813 (c) "Local health departments" mean the local health departments created in Title 26A,
5814 Chapter 1, Local Health Departments.

5815 (2) When it is necessary to treat a reportable disease or non-emergency condition that
5816 has a direct impact on public health, a health department may implement the prescription
5817 procedure described in Subsection (3) for a prescription drug that is not a controlled substance
5818 for use in:

5819 (a) a clinic; or

5820 (b) a remote or temporary off-site location, including a triage facility established in the
5821 community, that provides:

5822 (i) treatment for sexually transmitted infections;

5823 (ii) fluoride treatment;
5824 (iii) travel immunization;
5825 (iv) preventative treatment for an individual with latent tuberculosis infection;
5826 (v) preventative treatment for an individual at risk for an infectious disease that has a
5827 direct impact on public health when the treatment is indicated to prevent the spread of disease
5828 or to mitigate the seriousness of infection in the exposed individual; or

5829 (vi) other treatment as defined by the Department of Health and Human Services by
5830 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

5831 (3) In a circumstance described in Subsection (2), an individual with prescriptive
5832 authority may write a prescription for each contact, as defined in Section 26B-7-201, of a
5833 patient of the individual with prescriptive authority without a face-to-face exam, if:

5834 (a) the individual with prescriptive authority is treating the patient for a reportable
5835 disease or non-emergency condition having a direct impact on public health; and

5836 (b) the contact's condition is the same as the patient of the individual with prescriptive
5837 authority.

5838 (4) The following prescription procedure shall be carried out in accordance with the
5839 requirements of Subsection (5) and may be used only in the circumstances described under
5840 Subsections (2) and (3):

5841 (a) a physician writes and signs a prescription for a prescription drug, other than a
5842 controlled substance, without the name and address of the patient and without the date the
5843 prescription is provided to the patient; and

5844 (b) the physician authorizes a registered nurse employed by the health department to
5845 complete the prescription written under this Subsection (4) by inserting the patient's name and
5846 address, and the date the prescription is provided to the patient, in accordance with the
5847 physician's standing written orders and a written health department protocol approved by the
5848 ~~[physician and the medical director]~~ public health department ~~physician medical director~~ or the
5849 physician medical director of the state Department of Health and Human Services licensed
5850 under Chapter 67, Utah Medical Practices Act, or Chapter 68, Utah Osteopathic Medical
5851 Practice Act.

5852 (5) A physician assumes responsibility for all prescriptions issued under this section in
5853 the physician's name.

5854 (6) (a) All prescription forms to be used by a physician and health department in
5855 accordance with this section shall be serially numbered according to a numbering system
5856 assigned to that health department.

5857 (b) All prescriptions issued shall contain all information required under this chapter
5858 and rules adopted under this chapter.

5859 (7) Notwithstanding Sections 58-17b-302 and 58-17b-309, a nurse who is employed by
5860 a health department and licensed under Chapter 31b, Nurse Practice Act, may dispense a drug
5861 to treat a sexually transmitted infection if the drug is:

5862 (a) a repackaged drug as defined in Section 58-17b-802;

5863 (b) dispensed under a prescription authorized by this section;

5864 (c) provided at a location that is described in Subsection (2)(a) or (b) and operated by
5865 the health department;

5866 (d) provided in accordance with a dispensing standard that is issued by a physician who
5867 is employed by the health department; and

5868 (e) if applicable, in accordance with requirements established by the division in
5869 collaboration with the board under Subsection (8).

5870 (8) The division may make rules in collaboration with the board and in accordance
5871 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish specific
5872 requirements regarding the dispensing of a drug under Subsection (7).

5873 Section 79. Section **63B-3-102** is amended to read:

5874 **63B-3-102. Maximum amount -- Projects authorized.**

5875 (1) The total amount of bonds issued under this part may not exceed \$64,600,000.

5876 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide
5877 funds to pay all or part of the cost of acquiring and constructing the projects listed in this
5878 Subsection (2).

5879 (b) These costs may include the cost of acquiring land, interests in land, easements and
5880 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities
5881 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or
5882 convenient to the facilities, interest estimated to accrue on these bonds during the period to be
5883 covered by construction of the projects plus a period of six months after the end of the
5884 construction period and all related engineering, architectural, and legal fees.

5885 (c) For the division, proceeds shall be provided for the following:

5886 CAPITAL IMPROVEMENTS

5887	1	Alterations, Repairs, and Improvements	\$5,000,000
5888		TOTAL IMPROVEMENTS	\$5,000,000

5889 CAPITAL AND ECONOMIC DEVELOPMENT

5890	PRIORITY PROJECT	PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE COSTS
5891	1	University of Utah Marriott Library Phase III (Final)	\$13,811,500	\$881,600
5892	2	Bridgerland Applied Technology Center Utah State University Space	\$2,400,000	\$0
5893	3	Weber State University - Heat Plant	\$2,332,100	\$9,600
5894	4	Department of <u>Health and Human Services</u> - [Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services] <u>Division of Juvenile Justice and Youth Services</u>	\$4,180,000	\$400,000
5895	5	Snow College - Administrative Services/Student Center	\$3,885,100	\$224,500
5896	6	Ogden Weber Applied Technology Center - Metal Trades Building Design and Equipment Purchase	\$750,000	\$0
5897	7	Department of Corrections B-Block Remodel	\$1,237,100	\$72,000

5898	8	Utah State University - Old Main Phase III Design	\$550,000	\$0
5899	9	Department of Corrections - 144 bed Uintah Expansion	\$6,700,000	\$168,800
5900	10	Southern Utah University Administrative Services/Student Center	\$5,630,400	\$314,200
5901	11	Anasazi Museum	\$760,200	\$8,500
5902	12	Hill Air Force Base - Easements Purchase	\$9,500,000	\$0
5903	13	Signetics Building Remodel	\$2,000,000	\$0
5904	14	Antelope Island Visitors Center	\$750,000	\$30,000
5905	15	State Fair Park - Master Study	\$150,000	\$0
5906	16	Utah National Guard - Draper Land	\$380,800	\$0
5907	17	Davis Applied Technology Center - Design	\$325,000	\$0
5908	18	Palisade State Park - Land and Park Development	\$800,000	\$0
5909	19	Department of <u>Health and</u> Human Services - Cedar City Land	\$80,000	\$0
5910	20	Department of <u>Health and</u> Human Services - Clearfield Land	\$163,400	\$0
5911	21	Electronic technology, equipment, and hardware	\$2,500,000	\$0
5912		TOTAL CAPITAL AND ECONOMIC DEVELOPMENT	\$58,885,600	
5913		TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT	\$63,885,600	

- 5914 (d) For purposes of this section, operations and maintenance costs:
- 5915 (i) are estimates only;
- 5916 (ii) may include any operations and maintenance costs already funded in existing

5917 agency budgets; and

5918 (iii) are not commitments by this Legislature or future Legislatures to fund those
5919 operations and maintenance costs.

5920 (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not
5921 constitute a limitation on the amount that may be expended for any project.

5922 (b) The board may revise these estimates and redistribute the amount estimated for a
5923 project among the projects authorized.

5924 (c) The commission, by resolution and in consultation with the board, may delete one
5925 or more projects from this list if the inclusion of that project or those projects in the list could
5926 be construed to violate state law or federal law or regulation.

5927 (4) (a) The division may enter into agreements related to these projects before the
5928 receipt of proceeds of bonds issued under this chapter.

5929 (b) The division shall make those expenditures from unexpended and unencumbered
5930 building funds already appropriated to the Capital Projects Fund.

5931 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
5932 of bonds issued under this chapter.

5933 (d) The commission may, by resolution, make any statement of intent relating to that
5934 reimbursement that is necessary or desirable to comply with federal tax law.

5935 (5) (a) For those projects for which only partial funding is provided in Subsection (2),
5936 it is the intent of the Legislature that the balance necessary to complete the projects be
5937 addressed by future Legislatures, either through appropriations or through the issuance or sale
5938 of bonds.

5939 (b) For those phased projects, the division may enter into contracts for amounts not to
5940 exceed the anticipated full project funding but may not allow work to be performed on those
5941 contracts in excess of the funding already authorized by the Legislature.

5942 (c) Those contracts shall contain a provision for termination of the contract for the
5943 convenience of the state.

5944 (d) It is also the intent of the Legislature that this authorization to the division does not
5945 bind future Legislatures to fund projects initiated from this authorization.

5946 Section 80. Section **63B-3-301** is amended to read:

5947 **63B-3-301. Legislative intent -- Additional projects.**

5948 (1) It is the intent of the Legislature that, for any lease purchase agreement that the
5949 Legislature may authorize the Division of Facilities Construction and Management to enter into
5950 during its 1994 Annual General Session, the State Building Ownership Authority, at the
5951 reasonable rates and amounts it may determine, and with technical assistance from the state
5952 treasurer, the director of the Division of Finance, and the executive director of the Governor's
5953 Office of Planning and Budget, may seek out the most cost effective and prudent lease
5954 purchase plans available to the state and may, pursuant to Chapter 1, Part 3, State Building
5955 Ownership Authority Act, certificate out interests in, or obligations of the authority pertaining
5956 to:

- 5957 (a) the lease purchase obligation; or
- 5958 (b) lease rental payments under the lease purchase obligation.

5959 (2) It is the intent of the Legislature that the Department of Transportation dispose of
5960 surplus real properties and use the proceeds from those properties to acquire or construct
5961 through the Division of Facilities Construction and Management a new District Two Complex.

5962 (3) It is the intent of the Legislature that the Division of Facilities Construction and
5963 Management allocate funds from the Capital Improvement appropriation and donations to
5964 cover costs associated with the upgrade of the Governor's Residence that go beyond the
5965 restoration costs which can be covered by insurance proceeds.

5966 (4) (a) It is the intent of the Legislature to authorize the State Building Ownership
5967 Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to
5968 issue or execute obligations or enter into or arrange for a lease purchase agreement in which
5969 participation interests may be created, to provide up to \$10,600,000 for the construction of a
5970 Natural Resources Building in Salt Lake City, together with additional amounts necessary to:

- 5971 (i) pay costs of issuance;
- 5972 (ii) pay capitalized interest; and
- 5973 (iii) fund any debt service reserve requirements.

5974 (b) It is the intent of the Legislature that the authority seek out the most cost effective
5975 and prudent lease purchase plan available with technical assistance from the state treasurer, the
5976 director of the Division of Finance, and the executive director of the Governor's Office of
5977 Planning and Budget.

5978 (c) It is the intent of the Legislature that the operating budget for the Department of

5979 Natural Resources not be increased to fund these lease payments.

5980 (5) (a) It is the intent of the Legislature to authorize the State Building Ownership
5981 Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to
5982 issue or execute obligations or enter into or arrange for a lease purchase agreement in which
5983 participation interests may be created, to provide up to \$8,300,000 for the acquisition of the
5984 office buildings currently occupied by the Department of Environmental Quality and
5985 approximately 19 acres of additional vacant land at the Airport East Business Park in Salt Lake
5986 City, together with additional amounts necessary to:

- 5987 (i) pay costs of issuance;
- 5988 (ii) pay capitalized interest; and
- 5989 (iii) fund any debt service reserve requirements.

5990 (b) It is the intent of the Legislature that the authority seek out the most cost effective
5991 and prudent lease purchase plan available with technical assistance from the state treasurer, the
5992 director of the Division of Finance, and the executive director of the Governor's Office of
5993 Planning and Budget.

5994 (6) (a) It is the intent of the Legislature to authorize the State Building Ownership
5995 Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to
5996 issue or execute obligations or enter into or arrange for a lease purchase agreement in which
5997 participation interests may be created, to provide up to \$9,000,000 for the acquisition or
5998 construction of up to two field offices for the Department of Health and Human Services in the
5999 southwestern portion of Salt Lake County, together with additional amounts necessary to:

- 6000 (i) pay costs of issuance;
- 6001 (ii) pay capitalized interest; and
- 6002 (iii) fund any debt service reserve requirements.

6003 (b) It is the intent of the Legislature that the authority seek out the most cost effective
6004 and prudent lease purchase plan available with technical assistance from the state treasurer, the
6005 director of the Division of Finance, and the executive director of the Governor's Office of
6006 Planning and Budget.

6007 (7) (a) It is the intent of the Legislature to authorize the State Building Ownership
6008 Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to
6009 issue or execute obligations or enter into or arrange for lease purchase agreements in which

6010 participation interests may be created, to provide up to \$5,000,000 for the acquisition or
6011 construction of up to 13 stores for the Department of Alcoholic Beverage Services, together
6012 with additional amounts necessary to:

- 6013 (i) pay costs of issuance;
- 6014 (ii) pay capitalized interest; and
- 6015 (iii) fund any debt service reserve requirements.

6016 (b) It is the intent of the Legislature that the authority seek out the most cost effective
6017 and prudent lease purchase plan available with technical assistance from the state treasurer, the
6018 director of the Division of Finance, and the executive director of the Governor's Office of
6019 Planning and Budget.

6020 (c) It is the intent of the Legislature that the operating budget for the Department of
6021 Alcoholic Beverage Services not be increased to fund these lease payments.

6022 (8) (a) It is the intent of the Legislature to authorize the State Building Ownership
6023 Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to
6024 issue or execute obligations or enter into or arrange for a lease purchase agreement in which
6025 participation interests may be created, to provide up to \$6,800,000 for the construction of a
6026 Prerelease and Parole Center for the Department of Corrections, containing a minimum of 300
6027 beds, together with additional amounts necessary to:

- 6028 (i) pay costs of issuance;
- 6029 (ii) pay capitalized interest; and
- 6030 (iii) fund any debt service reserve requirements.

6031 (b) It is the intent of the Legislature that the authority seek out the most cost effective
6032 and prudent lease purchase plan available with technical assistance from the state treasurer, the
6033 director of the Division of Finance, and the executive director of the Governor's Office of
6034 Planning and Budget.

6035 (9) If S.B. 275, 1994 General Session, which authorizes funding for a Courts Complex
6036 in Salt Lake City, becomes law, it is the intent of the Legislature that:

6037 (a) the Legislative Management Committee, the Interim Appropriation Subcommittees
6038 for General Government and Capital Facilities and Executive Offices, Courts, and Corrections,
6039 the Office of the Legislative Fiscal Analyst, the Governor's Office of Planning and Budget, and
6040 the Division of Facilities Construction and Management participate in a review of the proposed

6041 facility design for the Courts Complex no later than December 1994; and

6042 (b) although this review will not affect the funding authorization issued by the 1994
6043 Legislature, it is expected that Division of Facilities Construction and Management will give
6044 proper attention to concerns raised in these reviews and make appropriate design changes
6045 pursuant to the review.

6046 (10) It is the intent of the Legislature that:

6047 (a) the Division of Facilities Construction and Management, in cooperation with the
6048 ~~[Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services]~~
6049 Division of Juvenile Justice and Youth Services, formerly known as the Division of Youth
6050 Corrections and then the Division of Juvenile Justice Services, develop a flexible use prototype
6051 facility for ~~[the Division of Youth Corrections renamed in 2003 to the Division of Juvenile~~
6052 Justice Services] the Division of Juvenile Justice and Youth Services;

6053 (b) the development process use existing prototype proposals unless it can be
6054 quantifiably demonstrated that the proposals cannot be used;

6055 (c) the facility is designed so that with minor modifications, it can accommodate
6056 detention, observation and assessment, transition, and secure programs as needed at specific
6057 geographical locations;

6058 (d) (i) funding as provided in the fiscal year 1995 bond authorization for the Division
6059 of Youth Corrections ~~[renamed in 2003 to the Division of Juvenile Justice Services]~~, now
6060 known as the Division of Juvenile Justice and Youth Services is used to design and construct
6061 one facility and design the other;

6062 (ii) the ~~[Division of Youth Corrections renamed in 2003 to the Division of Juvenile~~
6063 Justice Services] Division of Juvenile Justice and Youth Services shall:

6064 (A) determine the location for the facility for which design and construction are fully
6065 funded; and

6066 (B) in conjunction with the Division of Facilities Construction and Management,
6067 determine the best methodology for design and construction of the fully funded facility;

6068 (e) the Division of Facilities Construction and Management submit the prototype as
6069 soon as possible to the Infrastructure and General Government Appropriations Subcommittee
6070 and Executive Offices, Criminal Justice, and Legislature Appropriation Subcommittee for
6071 review;

6072 (f) the Division of Facilities Construction and Management issue a Request for
6073 Proposal for one of the facilities, with that facility designed and constructed entirely by the
6074 winning firm;

6075 (g) the other facility be designed and constructed under the existing Division of
6076 Facilities Construction and Management process;

6077 (h) that both facilities follow the program needs and specifications as identified by
6078 Division of Facilities Construction and Management and the [~~Division of Youth Corrections~~
6079 ~~renamed in 2003 to the Division of Juvenile Justice Services~~] Division of Juvenile Justice and
6080 Youth Services in the prototype; and

6081 (i) the fully funded facility should be ready for occupancy by September 1, 1995.

6082 (11) It is the intent of the Legislature that the fiscal year 1995 funding for the State Fair
6083 Park Master Study be used by the Division of Facilities Construction and Management to
6084 develop a master plan for the State Fair Park that:

6085 (a) identifies capital facilities needs, capital improvement needs, building
6086 configuration, and other long term needs and uses of the State Fair Park and its buildings; and

6087 (b) establishes priorities for development, estimated costs, and projected timetables.

6088 (12) It is the intent of the Legislature that:

6089 (a) the Division of Facilities Construction and Management, in cooperation with the
6090 Division of State Parks, formerly known as the Division of Parks and Recreation, and
6091 surrounding counties, develop a master plan and general program for the phased development
6092 of Antelope Island;

6093 (b) the master plan:

6094 (i) establish priorities for development;

6095 (ii) include estimated costs and projected time tables; and

6096 (iii) include recommendations for funding methods and the allocation of
6097 responsibilities between the parties; and

6098 (c) the results of the effort be reported to the Natural Resources, Agriculture, and
6099 Environmental Quality Appropriations Subcommittee and Infrastructure and General
6100 Government Appropriations Subcommittee.

6101 (13) It is the intent of the Legislature to authorize the University of Utah to use:

6102 (a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under

6103 the supervision of the director of the Division of Facilities Construction and Management
6104 unless supervisory authority is delegated by the director; and

6105 (b) donated and other nonappropriated funds to plan, design, and construct the Biology
6106 Research Building under the supervision of the director of the Division of Facilities
6107 Construction and Management unless supervisory authority is delegated by the director.

6108 (14) It is the intent of the Legislature to authorize Utah State University to use:

6109 (a) federal and other funds to plan, design, and construct the Bee Lab under the
6110 supervision of the director of the Division of Facilities Construction and Management unless
6111 supervisory authority is delegated by the director;

6112 (b) donated and other nonappropriated funds to plan, design, and construct an Athletic
6113 Facility addition and renovation under the supervision of the director of the Division of
6114 Facilities Construction and Management unless supervisory authority is delegated by the
6115 director;

6116 (c) donated and other nonappropriated funds to plan, design, and construct a renovation
6117 to the Nutrition and Food Science Building under the supervision of the director of the
6118 Division of Facilities Construction and Management unless supervisory authority is delegated
6119 by the director; and

6120 (d) federal and private funds to plan, design, and construct the Millville Research
6121 Facility under the supervision of the director of the Division of Facilities Construction and
6122 Management unless supervisory authority is delegated by the director.

6123 (15) It is the intent of the Legislature to authorize Salt Lake Community College to use:

6124 (a) institutional funds to plan, design, and construct a remodel to the Auto Trades
6125 Office and Learning Center under the supervision of the director of the Division of Facilities
6126 Construction and Management unless supervisory authority is delegated by the director;

6127 (b) institutional funds to plan, design, and construct the relocation and expansion of a
6128 temporary maintenance compound under the supervision of the director of the Division of
6129 Facilities Construction and Management unless supervisory authority is delegated by the
6130 director; and

6131 (c) institutional funds to plan, design, and construct the Alder Amphitheater under the
6132 supervision of the director of the Division of Facilities Construction and Management unless
6133 supervisory authority is delegated by the director.

6134 (16) It is the intent of the Legislature to authorize Southern Utah University to use:

6135 (a) federal funds to plan, design, and construct a Community Services Building under
6136 the supervision of the director of the Division of Facilities Construction and Management
6137 unless supervisory authority is delegated by the director; and

6138 (b) donated and other nonappropriated funds to plan, design, and construct a stadium
6139 expansion under the supervision of the director of the Division of Facilities Construction and
6140 Management unless supervisory authority is delegated by the director.

6141 (17) It is the intent of the Legislature to authorize the Department of Corrections to use
6142 donated funds to plan, design, and construct a Prison Chapel at the Central Utah Correctional
6143 Facility in Gunnison under the supervision of the director of the Division of Facilities
6144 Construction and Management unless supervisory authority is delegated by the director.

6145 (18) If the Utah National Guard does not relocate in the Signetics Building, it is the
6146 intent of the Legislature to authorize the Guard to use federal funds and funds from Provo City
6147 to plan and design an Armory in Provo, Utah, under the supervision of the director of the
6148 Division of Facilities Construction and Management unless supervisory authority is delegated
6149 by the director.

6150 (19) It is the intent of the Legislature that the Utah Department of Transportation use
6151 \$250,000 of the fiscal year 1995 highway appropriation to fund an environmental study in
6152 Ogden, Utah of the 2600 North Corridor between Washington Boulevard and I-15.

6153 (20) It is the intent of the Legislature that the Ogden-Weber Applied Technology
6154 Center use the money appropriated for fiscal year 1995 to design the Metal Trades Building
6155 and purchase equipment for use in that building that could be used in metal trades or other
6156 programs in other Applied Technology Centers.

6157 (21) It is the intent of the Legislature that the Bridgerland Applied Technology Center
6158 and the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995 be
6159 considered as the highest priority projects for construction funding in fiscal year 1996.

6160 (22) It is the intent of the Legislature that:

6161 (a) the Division of Facilities Construction and Management complete physical space
6162 utilization standards by June 30, 1995, for the use of technology education activities;

6163 (b) these standards are to be developed with and approved by the State Board of
6164 Education, the Board of Regents, and the Division of Facilities Construction and Management;

6165 (c) these physical standards be used as the basis for:

6166 (i) determining utilization of any technology space based on number of stations capable
6167 and occupied for any given hour of operation; and

6168 (ii) requests for any new space or remodeling;

6169 (d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the
6170 Ogden-Weber Applied Technology Center are exempt from this process; and

6171 (e) the design of the Davis Applied Technology Center take into account the utilization
6172 formulas established by the Division of Facilities Construction and Management.

6173 (23) It is the intent of the Legislature that Utah Valley State College may use the
6174 money from the bond allocated to the remodel of the Signetics building to relocate its technical
6175 education programs at other designated sites or facilities under the supervision of the director
6176 of the Division of Facilities Construction and Management unless supervisory authority is
6177 delegated by the director.

6178 (24) It is the intent of the Legislature that the money provided for the fiscal year 1995
6179 project for the Bridgerland Applied Technology Center be used to design and construct the
6180 space associated with Utah State University and design the technology center portion of the
6181 project.

6182 (25) It is the intent of the Legislature that the governor provide periodic reports on the
6183 expenditure of the funds provided for electronic technology, equipment, and hardware to the
6184 Infrastructure and General Government Appropriations Subcommittee, and the Legislative
6185 Management Committee.

6186 Section 81. Section **63B-4-102** is amended to read:

6187 **63B-4-102. Maximum amount -- Projects authorized.**

6188 (1) The total amount of bonds issued under this part may not exceed \$45,300,000.

6189 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide
6190 funds to pay all or part of the cost of acquiring and constructing the projects listed in this
6191 Subsection (2).

6192 (b) These costs may include the cost of acquiring land, interests in land, easements and
6193 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities
6194 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or
6195 convenient to the facilities, interest estimated to accrue on these bonds during the period to be

6196 covered by construction of the projects plus a period of six months after the end of the
 6197 construction period, and all related engineering, architectural, and legal fees.

6198 (c) For the division, proceeds shall be provided for the following:

6199	CAPITAL IMPROVEMENTS		
6200	Alterations, Repairs, and Improvements		\$7,200,000
6201	TOTAL IMPROVEMENTS		\$7,200,000

6202 CAPITAL AND ECONOMIC DEVELOPMENT

6203	PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE COSTS
6204	Corrections - Uinta IVA	\$11,300,000	\$212,800
6205	Utah County Youth Correctional Facility	\$6,650,000	\$245,000
6206	Ogden Weber Applied Technology Center - Metal Trades	\$5,161,000	\$176,000
6207	Project Reserve Fund	\$3,500,000	None
6208	Weber State University - Browning Center Remodel	\$3,300,000	None
6209	Heber Wells Building Remodel	\$2,000,000	None
6210	Higher Education Davis County - Land Purchase	\$1,600,000	None
6211	National Guard -- Provo Armory	\$1,500,000	\$128,000
6212	Department of Natural Resources - Pioneer Trails Visitor Center	\$900,000	\$65,000
6213	Higher Education Design Projects	\$800,000	Varies depending upon projects selected
6214	Salt Lake Community College - South Valley Planning	\$300,000	None

6215	Division of Youth Corrections renamed in 2003 to the <u>Division of Juvenile Justice and Youth Services, formerly known as the Division of Juvenile Justice Services - Logan Land Purchase</u>	\$120,000	None
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6216	TOTAL CAPITAL AND ECONOMIC DEVELOPMENT	\$37,131,000
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6217	TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT	\$44,331,000
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6218 (d) For purposes of this section, operations and maintenance costs:

6219 (i) are estimates only;

6220 (ii) may include any operations and maintenance costs already funded in existing
6221 agency budgets; and

6222 (iii) are not commitments by this Legislature or future Legislatures to fund those
6223 operations and maintenance costs.

6224 (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not
6225 constitute a limitation on the amount that may be expended for any project.

6226 (b) The board may revise these estimates and redistribute the amount estimated for a
6227 project among the projects authorized.

6228 (c) The commission, by resolution and in consultation with the board, may delete one
6229 or more projects from this list if the inclusion of that project or those projects in the list could
6230 be construed to violate state law or federal law or regulation.

6231 (4) (a) The division may enter into agreements related to these projects before the
6232 receipt of proceeds of bonds issued under this chapter.

6233 (b) The division shall make those expenditures from unexpended and unencumbered
6234 building funds already appropriated to the Capital Projects Fund.

6235 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
6236 of bonds issued under this chapter.

6237 (d) The commission may, by resolution, make any statement of intent relating to that
6238 reimbursement that is necessary or desirable to comply with federal tax law.

6239 (5) (a) For those projects for which only partial funding is provided in Subsection (2),
6240 it is the intent of the Legislature that the balance necessary to complete the projects be
6241 addressed by future Legislatures, either through appropriations or through the issuance or sale

6242 of bonds.

6243 (b) For those phased projects, the division may enter into contracts for amounts not to
6244 exceed the anticipated full project funding but may not allow work to be performed on those
6245 contracts in excess of the funding already authorized by the Legislature.

6246 (c) Those contracts shall contain a provision for termination of the contract for the
6247 convenience of the state.

6248 (d) It is also the intent of the Legislature that this authorization to the division does not
6249 bind future Legislatures to fund projects initiated from this authorization.

6250 Section 82. Section **63B-11-702** is amended to read:

6251 **63B-11-702. Other capital facility authorizations and intent language.**

6252 (1) It is the intent of the Legislature that:

6253 (a) Salt Lake Community College use donations and other institutional funds to plan,
6254 design, and construct a renovation of and addition to the Grand Theater under the direction of
6255 the director of the Division of Facilities Construction and Management unless supervisory
6256 authority has been delegated;

6257 (b) no state funds be used for any portion of this project; and

6258 (c) the college may request state funds for operations and maintenance to the extent
6259 that the college is able to demonstrate to the Board of Regents that the facility meets approved
6260 academic and training purposes under Board of Regents policy R710.

6261 (2) It is the intent of the Legislature that:

6262 (a) the University of Utah use donations, grants, and other institutional funds to plan,
6263 design, and construct a Department of Chemistry Gauss House under the direction of the
6264 director of the Division of Facilities Construction and Management unless supervisory
6265 authority has been delegated;

6266 (b) no state funds be used for any portion of this project; and

6267 (c) the university may request state funds for operations and maintenance to the extent
6268 that the university is able to demonstrate to the Board of Regents that the facility meets
6269 approved academic and training purposes under Board of Regents policy R710.

6270 (3) It is the intent of the Legislature that:

6271 (a) the University of Utah use donations and other institutional funds to plan, design,
6272 and construct an expansion of the Eccles Health Science Library and the associated parking

6273 structure under the direction of the director of the Division of Facilities Construction and
6274 Management unless supervisory authority has been delegated;

6275 (b) no state funds be used for any portion of this project; and

6276 (c) the university may request state funds for operations and maintenance to the extent
6277 that the university is able to demonstrate to the Board of Regents that the facility meets
6278 approved academic and training purposes under Board of Regents policy R710.

6279 (4) It is the intent of the Legislature that:

6280 (a) the University of Utah use donations and other institutional funds to plan, design,
6281 and construct a Phase II Addition to the Moran Eye Center under the direction of the director of
6282 the Division of Facilities Construction and Management unless supervisory authority has been
6283 delegated;

6284 (b) no state funds be used for any portion of this project; and

6285 (c) the university may not request state funds for operations and maintenance.

6286 (5) It is the intent of the Legislature that:

6287 (a) the University of Utah use donations and other institutional funds to plan, design,
6288 and construct a Children's Dance Theatre under the direction of the director of the Division of
6289 Facilities Construction and Management unless supervisory authority has been delegated;

6290 (b) no state funds be used for any portion of this project; and

6291 (c) the university may not request state funds for operations and maintenance.

6292 (6) It is the intent of the Legislature that:

6293 (a) Utah State University use donations and other institutional funds to plan, design,
6294 and construct a Teaching Pavilion at its Animal Science Farm under the direction of the
6295 director of the Division of Facilities Construction and Management unless supervisory
6296 authority has been delegated;

6297 (b) no state funds be used for any portion of this project; and

6298 (c) the university may request state funds for operations and maintenance to the extent
6299 that the university is able to demonstrate to the Board of Regents that the facility meets
6300 approved academic and training purposes under Board of Regents policy R710.

6301 (7) It is the intent of the Legislature that:

6302 (a) the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth
6303 Services use donations to plan, design, and construct a chapel at the Slate Canyon Youth

6304 Corrections Facility under the direction of the director of the Division of Facilities
6305 Construction and Management unless supervisory authority has been delegated;

6306 (b) no state funds be used for any portion of this project; and

6307 (c) the division may not request additional state funding for operations and
6308 maintenance.

6309 (8) It is the intent of the Legislature that the Utah National Guard use federal funds and
6310 proceeds from the sale of property to acquire a site for new facilities in Salt Lake or Davis
6311 County.

6312 (9) It is the intent of the Legislature that:

6313 (a) the Utah National Guard use donations and grants to plan, design, and construct the
6314 renovation and expansion of the Fort Douglas Military Museum under the direction of the
6315 director of the Division of Facilities Construction and Management unless supervisory
6316 authority has been delegated;

6317 (b) no state funds be used for any portion of this project; and

6318 (c) the National Guard may not request additional state funding for operations and
6319 maintenance.

6320 (10) It is the intent of the Legislature that:

6321 (a) the Division of Facilities Construction and Management pursue the exchange of
6322 public safety facilities in Orem if:

6323 (i) the land and newly constructed replacement facilities meet the needs of the Driver
6324 License Division and the Utah Highway Patrol; and

6325 (ii) the replacement property and facilities can be obtained at a cost that is not less than
6326 the market value of the existing property and facilities; and

6327 (b) the division confirms the value of the properties to be exchanged.

6328 Section 83. Section **63M-7-208** is amended to read:

6329 **63M-7-208. Juvenile justice oversight -- Delegation -- Effective dates.**

6330 (1) The State Commission on Criminal and Juvenile Justice shall:

6331 (a) support implementation and expansion of evidence-based juvenile justice programs
6332 and practices, including assistance regarding implementation fidelity, quality assurance, and
6333 ongoing evaluation;

6334 (b) examine and make recommendations on the use of third-party entities or an

6335 intermediary organization to assist with implementation and to support the performance-based
6336 contracting system authorized in Subsection (1)(m);

6337 (c) oversee the development of performance measures to track juvenile justice reforms,
6338 and ensure early and ongoing stakeholder engagement in identifying the relevant performance
6339 measures;

6340 (d) evaluate currently collected data elements throughout the juvenile justice system
6341 and contract reporting requirements to streamline reporting, reduce redundancies, eliminate
6342 inefficiencies, and ensure a focus on recidivism reduction;

6343 (e) review averted costs from reductions in out-of-home placements for juvenile justice
6344 youth placed with the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and
6345 Youth Services and the Division of Child and Family Services, and make recommendations to
6346 prioritize the reinvestment and realignment of resources into community-based programs for
6347 youth living at home, including the following:

6348 (i) statewide expansion of:

6349 (A) juvenile receiving centers, as defined in Section [80-1-102](#);

6350 (B) mobile crisis outreach teams, as defined in Section [~~62A-15-102~~] [26B-5-101](#);

6351 (C) youth courts; and

6352 (D) victim-offender mediation;

6353 (ii) statewide implementation of nonresidential diagnostic assessment;

6354 (iii) statewide availability of evidence-based programs and practices including
6355 cognitive behavioral and family therapy programs for minors assessed by a validated risk and
6356 needs assessment as moderate or high risk;

6357 (iv) implementation and infrastructure to support the sustainability and fidelity of
6358 evidence-based juvenile justice programs, including resources for staffing, transportation, and
6359 flexible funds; and

6360 (v) early intervention programs such as family strengthening programs, family
6361 wraparound services, and proven truancy interventions;

6362 (f) assist the Administrative Office of the Courts in the development of a statewide
6363 sliding scale for the assessment of fines, fees, and restitution, based on the ability of the minor's
6364 family to pay;

6365 (g) analyze the alignment of resources and the roles and responsibilities of agencies,

6366 such as the operation of early intervention services, receiving centers, and diversion, and make
6367 recommendations to reallocate functions as appropriate, in accordance with Section 80-5-401;

6368 (h) comply with the data collection and reporting requirements under Section
6369 80-6-104;

6370 (i) develop a reasonable timeline within which all programming delivered to minors in
6371 the juvenile justice system must be evidence-based or consist of practices that are rated as
6372 effective for reducing recidivism by a standardized program evaluation tool;

6373 (j) provide guidelines to be considered by the Administrative Office of the Courts and
6374 the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services in
6375 developing tools considered by the Administrative Office of the Courts and the [~~Division of~~
6376 ~~Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services in developing or
6377 selecting tools to be used for the evaluation of juvenile justice programs;

6378 (k) develop a timeline to support improvements to juvenile justice programs to achieve
6379 reductions in recidivism and review reports from relevant state agencies on progress toward
6380 reaching that timeline;

6381 (l) subject to Subsection (2), assist in the development of training for juvenile justice
6382 stakeholders, including educators, law enforcement officers, probation staff, judges, [~~Division~~
6383 ~~of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services staff, Division of
6384 Child and Family Services staff, and program providers;

6385 (m) subject to Subsection (3), assist in the development of a performance-based
6386 contracting system, which shall be developed by the Administrative Office of the Courts and
6387 the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services for
6388 contracted services in the community and contracted out-of-home placement providers;

6389 (n) assist in the development of a validated detention risk assessment tool that is
6390 developed or adopted and validated by the Administrative Office of the Courts and the
6391 [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services as
6392 provided in Section 80-5-203; and

6393 (o) annually issue and make public a report to the governor, president of the Senate,
6394 speaker of the House of Representatives, and chief justice of the Utah Supreme Court on the
6395 progress of the reforms and any additional areas in need of review.

6396 (2) Training described in Subsection (1)(l) should include instruction on

6397 evidence-based programs and principles of juvenile justice, such as risk, needs, responsiveness,
6398 and fidelity, and shall be supplemented by the following topics:

- 6399 (a) adolescent development;
- 6400 (b) identifying and using local behavioral health resources;
- 6401 (c) cross-cultural awareness;
- 6402 (d) graduated responses;
- 6403 (e) Utah juvenile justice system data and outcomes; and
- 6404 (f) gangs.

6405 (3) The system described in Subsection (1)(m) shall provide incentives for:

- 6406 (a) the use of evidence-based juvenile justice programs and practices rated as effective
6407 by the tools selected in accordance with Subsection (1)(j);
- 6408 (b) the use of three-month timelines for program completion; and
- 6409 (c) evidence-based programs and practices for minors living at home in rural areas.

6410 (4) The State Commission on Criminal and Juvenile Justice may delegate the duties
6411 imposed under this section to a subcommittee or board established by the State Commission on
6412 Criminal and Juvenile Justice in accordance with Subsection [63M-7-204\(2\)](#).

6413 Section 84. Section **63M-7-401** is amended to read:

6414 **63M-7-401. Creation -- Members -- Appointment -- Qualifications.**

6415 (1) There is created a state commission to be known as the Sentencing Commission
6416 composed of 28 members. The commission shall develop by-laws and rules in compliance
6417 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and elect its officers.

6418 (2) The commission's members shall be:

- 6419 (a) two members of the House of Representatives, appointed by the speaker of the
6420 House and not of the same political party;
- 6421 (b) two members of the Senate, appointed by the president of the Senate and not of the
6422 same political party;
- 6423 (c) the executive director of the Department of Corrections or a designee appointed by
6424 the executive director;
- 6425 (d) the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile
6426 Justice and Youth Services or a designee appointed by the director;
- 6427 (e) the executive director of the Commission on Criminal and Juvenile Justice or a

6428 designee appointed by the executive director;

6429 (f) the chair of the Board of Pardons and Parole or a designee appointed by the chair;

6430 (g) the chair of the Youth Parole Authority or a designee appointed by the chair;

6431 (h) two trial judges and an appellate judge appointed by the chair of the Judicial

6432 Council;

6433 (i) two juvenile court judges designated by the chair of the Judicial Council;

6434 (j) an attorney in private practice who is a member of the Utah State Bar, experienced
6435 in criminal defense, and appointed by the Utah Bar Commission;

6436 (k) an attorney who is a member of the Utah State Bar, experienced in the defense of
6437 minors in juvenile court, and appointed by the Utah Bar Commission;

6438 (l) the director of Salt Lake Legal Defenders or a designee appointed by the director;

6439 (m) the attorney general or a designee appointed by the attorney general;

6440 (n) a criminal prosecutor appointed by the Statewide Association of Public Attorneys;

6441 (o) a juvenile court prosecutor appointed by the Statewide Association of Public

6442 Attorneys;

6443 (p) a representative of the Utah Sheriff's Association appointed by the governor;

6444 (q) a chief of police appointed by the governor;

6445 (r) a licensed professional appointed by the governor who assists in the rehabilitation
6446 of adult offenders;

6447 (s) a licensed professional appointed by the governor who assists in the rehabilitation
6448 of juvenile offenders;

6449 (t) two members from the public appointed by the governor who exhibit sensitivity to
6450 the concerns of victims of crime and the ethnic composition of the population;

6451 (u) one member from the public at large appointed by the governor; and

6452 (v) a representative of an organization that specializes in civil rights or civil liberties on
6453 behalf of incarcerated individuals appointed by the governor.

6454 Section 85. Section **63M-7-601** is amended to read:

6455 **63M-7-601. Creation -- Members -- Chair.**

6456 (1) There is created within the governor's office the Utah Council on Victims of Crime.

6457 (2) The council is composed of 28 voting members as follows:

6458 (a) a representative of the State Commission on Criminal and Juvenile Justice

- 6459 appointed by the executive director;
- 6460 (b) a representative of the Department of Corrections appointed by the executive
6461 director;
- 6462 (c) a representative of the Board of Pardons and Parole appointed by the chair;
- 6463 (d) a representative of the Department of Public Safety appointed by the commissioner;
- 6464 (e) a representative of the [~~Division of Juvenile Justice Services~~] Division of Juvenile
6465 Justice and Youth Services appointed by the director;
- 6466 (f) a representative of the Utah Office for Victims of Crime appointed by the director;
- 6467 (g) a representative of the Office of the Attorney General appointed by the attorney
6468 general;
- 6469 (h) a representative of the United States Attorney for the district of Utah appointed by
6470 the United States Attorney;
- 6471 (i) a representative of Utah's Native American community appointed by the director of
6472 the Division of Indian Affairs after input from federally recognized tribes in Utah;
- 6473 (j) a professional or volunteer working in the area of violence against women and
6474 families appointed by the governor;
- 6475 (k) a representative of the Department of Health and Human Services Violence and
6476 Injury Prevention Program appointed by the program's manager;
- 6477 (l) the chair of each judicial district's victims' rights committee;
- 6478 (m) a representative of the Statewide Association of Public Attorneys appointed by that
6479 association;
- 6480 (n) a representative of the Utah Chiefs of Police Association appointed by the president
6481 of that association;
- 6482 (o) a representative of the Utah Sheriffs' Association appointed by the president of that
6483 association;
- 6484 (p) a representative of a Children's Justice Center appointed by the attorney general;
- 6485 (q) the director of the Division of Child and Family Services or that individual's
6486 designee;
- 6487 (r) the chair of the Utah Victim Services Commission or the chair's designee; and
- 6488 (s) the following members appointed by the members in Subsections (2)(a) through
6489 (2)(r) to serve four-year terms:

- 6490 (i) an individual who engages in community based advocacy;
- 6491 (ii) a citizen representative; and
- 6492 (iii) a citizen representative who has been a victim of crime.

6493 (3) The council shall annually elect:

- 6494 (a) one member to serve as chair;
- 6495 (b) one member to serve as vice-chair; and
- 6496 (c) one member to serve as treasurer.

6497 Section 86. Section **63M-7-702** is amended to read:

6498 **63M-7-702. Domestic Violence Offender Treatment Board -- Creation --**
6499 **Membership -- Quorum -- Per diem -- Staff support -- Meetings.**

6500 (1) There is created within the commission the Domestic Violence Offender Treatment
6501 Board consisting of the following members:

6502 (a) the executive director of the Department of Corrections, or the executive director's
6503 designee;

6504 (b) the executive director of the Department of Health and Human Services, or the
6505 executive director's designee;

6506 (c) one individual who represents a state program that focuses on prevention of injury
6507 and domestic violence appointed by the executive director of the Department of Health and
6508 Human Services;

6509 (d) the commissioner of public safety for the Department of Public Safety, or the
6510 commissioner's designee;

6511 (e) the chair of the Utah Victim Services Commission or the chair's designee;

6512 (f) the director of the Utah Office for Victims of Crime, or the director's designee;

6513 (g) the chair of the Board of Pardons and Parole, or the chair's designee;

6514 (h) the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile
6515 Justice and Youth Services, or the director's designee;

6516 (i) one individual who represents the Administrative Office of the Courts appointed by
6517 the state court administrator; and

6518 (j) ten individuals appointed by the executive director of the commission, including:

6519 (i) the following four individuals licensed under Title 58, Chapter 60, Mental Health
6520 Professional Practice Act:

6521 (A) a clinical social worker;
6522 (B) a marriage and family therapist;
6523 (C) a professional counselor; and
6524 (D) a psychologist;
6525 (ii) one individual who represents an association of criminal defense attorneys;
6526 (iii) one criminal defense attorney who primarily represents indigent criminal
6527 defendants;
6528 (iv) one individual who represents an association of prosecuting attorneys;
6529 (v) one individual who represents law enforcement;
6530 (vi) one individual who represents an association of criminal justice victim advocates;
6531 and
6532 (vii) one individual who represents a nonprofit organization that provides domestic
6533 violence victim advocate services.
6534 (2) (a) A member may not serve on the board for more than eight consecutive years.
6535 (b) If a vacancy occurs in the membership of the board appointed under Subsection (1),
6536 the member shall be replaced in the same manner in which the original appointment was made.
6537 (c) A member of the board serves until the member's successor is appointed.
6538 (3) The members of the board shall vote on a chair and co-chair of the board to serve
6539 for two years.
6540 (4) (a) A majority of the board members constitutes a quorum.
6541 (b) The action of a majority of a quorum constitutes an action of the board.
6542 (5) A board member may not receive compensation or benefits for the member's
6543 service on the board, but may receive per diem and reimbursement for travel expenses incurred
6544 as a board member at the rates established by the Division of Finance under:
6545 (a) Sections [63A-3-106](#) and [63A-3-107](#); and
6546 (b) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).
6547 (6) The commission shall provide staff support to the board.
6548 (7) The board shall meet at least quarterly on a date the board sets.
6549 Section 87. Section **63M-7-802** is amended to read:
6550 **63M-7-802. Sex Offense Management Board - Creation - Members appointment -**
6551 **Qualifications - Terms.**

- 6552 (1) There is created within the commission the Sex Offense Management Board
6553 consisting of the following members:
- 6554 (a) the executive director of the Department of Corrections, or the executive director's
6555 designee;
 - 6556 (b) the commissioner of the Department of Public Safety, or the commissioner's
6557 designee;
 - 6558 (c) the attorney general, or the attorney general's designee;
 - 6559 (d) an officer with the adult probation and parole section of the Department of
6560 Corrections with experience supervising adults convicted of sex offenses, appointed by the
6561 executive director of the Department of Corrections;
 - 6562 (e) the executive director of the Department of Health and Human Services, or the
6563 executive director's designee;
 - 6564 (f) an individual who represents the Administrative Office of the Courts appointed by
6565 the state court administrator;
 - 6566 (g) the director of the Utah Office for Victims of Crime, or the director's designee;
 - 6567 (h) the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile
6568 Justice and Youth Services, or the director's designee;
 - 6569 (i) the chair of the Board of Pardons and Parole, or the chair's designee; and
 - 6570 (j) nine individuals appointed by the executive director of the commission, including:
 - 6571 (i) the following two individuals licensed under Title 58, Chapter 60, Mental Health
6572 Professional Practice Act:
 - 6573 (A) an individual with experience in the treatment of adults convicted of sex offenses
6574 in the community;
 - 6575 (B) an individual with experience in the treatment of juveniles adjudicated of sex
6576 offenses in the community;
 - 6577 (ii) an individual who represents an association of criminal defense attorneys;
 - 6578 (iii) an individual who is a criminal defense attorney experienced in indigent criminal
6579 defense;
 - 6580 (iv) an individual who represents an association of prosecuting attorneys;
 - 6581 (v) an individual who represents law enforcement;
 - 6582 (vi) an individual who represents an association of criminal justice victim advocates;

6583 (vii) an individual who is a clinical polygraph examiner experienced in providing
6584 polygraph examinations to individuals convicted of sex offenses; and

6585 (viii) an individual who has been previously convicted of a sex offense and has
6586 successfully completed treatment and supervision for the offense.

6587 (2) (a) A member described in Subsection (1)(j) shall serve a four-year term.

6588 (b) If a vacancy occurs among a member described in Subsection (1)(j), the executive
6589 director of the commission may appoint a new individual to fill the remainder of the term.

6590 (c) When a term of a member described in Subsection (1)(j) expires, the executive
6591 director of the commission shall appoint a new member or reappoint the member whose term
6592 has expired to a new four-year term.

6593 (3) The members of the board shall vote on a chair and co-chair of the board from
6594 among the members described in Subsection (1) to serve a two-year term.

6595 (4) A majority of the board constitutes a quorum.

6596 (5) A board member may not receive compensation or benefits for the member's
6597 service on the board, but may receive per diem and reimbursement for travel expenses incurred
6598 as a board member at rates established by the Division of Finance under:

6599 (a) Sections [63A-3-106](#) and [63A-3-107](#); and

6600 (b) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).

6601 (6) The commission shall provide staff support to the board.

6602 (7) The board shall meet at least six times per year on dates the board sets.

6603 Section 88. Section **67-5b-101** is amended to read:

6604 **67-5b-101. Definitions.**

6605 As used in this part:

6606 (1) "Center" means a Children's Justice Center established in accordance with Section
6607 [67-5b-102](#).

6608 (2) "Child abuse case" means a juvenile, civil, or criminal case involving a child abuse
6609 victim.

6610 (3) "Child abuse victim" means a child 17 years [~~of age~~] old or younger who is:

6611 (a) a victim of:

6612 (i) sexual abuse; or

6613 (ii) physical abuse; or

6614 (b) a victim or a critical witness in any criminal case, such as a child endangerment
6615 case described in Section 76-5-112.5.

6616 (4) "Officers and employees" means any person performing services for two or more
6617 public agencies as agreed in a memorandum of understanding in accordance with Section
6618 67-5b-104.

6619 (5) "Public agency" means a municipality, a county, the attorney general, the Division
6620 of Child and Family Services, the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile
6621 Justice and Youth Services, the Department of Corrections, the juvenile court, or the
6622 Administrative Office of the Courts.

6623 (6) "Satellite office" means a child-friendly facility supervised by a Children's Justice
6624 Center established in accordance with Section 67-5b-102.

6625 (7) (a) "Volunteer" means any individual who donates service without pay or other
6626 compensation except expenses actually and reasonably incurred as approved by the supervising
6627 agency.

6628 (b) "Volunteer" does not include an individual participating in human subjects research
6629 or a court-ordered compensatory service worker as defined in Section 67-20-2.

6630 Section 89. Section 76-3-401.5 is amended to read:

6631 **76-3-401.5. Concurrent or consecutive sentence with a juvenile disposition.**

6632 (1) As used in this section:

6633 (a) "Authority" means the Youth Parole Authority created in Section 80-5-701.

6634 (b) "Board" means the Board of Pardons and Parole created in Section 77-27-2.

6635 (c) "Division" means the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile
6636 Justice and Youth Services created in Section 80-5-103.

6637 (d) (i) "Juvenile disposition" means an order for commitment to the custody of the
6638 division under Subsection 80-6-703(2).

6639 (ii) "Juvenile disposition" includes an order for secure care under Subsection
6640 80-6-705(1).

6641 (e) "Secure correctional facility" means the same as that term is defined in Section
6642 64-13-1.

6643 (f) "Secure care" means the same as that term is defined in Section 80-1-102.

6644 (2) If a defendant who is 18 years old or older is serving a juvenile disposition, a court

6645 may not terminate the juvenile disposition for the defendant when:

6646 (a) the defendant is convicted of an offense; and

6647 (b) the court imposes a sentence under Section 76-3-201 for the offense.

6648 (3) (a) If a defendant who is 18 years old or older is convicted and sentenced for an
6649 offense and the defendant is serving a juvenile disposition at the time of sentencing, the court
6650 shall determine whether the sentence is to run concurrently or consecutively to the juvenile
6651 disposition.

6652 (b) The court shall state on the record and in the order of judgment and commitment
6653 whether the sentence imposed is to run concurrently or consecutively with the juvenile
6654 disposition.

6655 (c) In determining whether a sentence is to run concurrently or consecutively with a
6656 juvenile disposition, the court shall consider:

6657 (i) the gravity and circumstances of the offense for which the defendant is convicted;

6658 (ii) the number of victims; and

6659 (iii) the history, character, and rehabilitative needs of the defendant.

6660 (d) If an order of judgment and commitment does not clearly state whether the sentence
6661 is to run consecutively or concurrently with the juvenile disposition, the division shall request
6662 clarification from the court.

6663 (e) Upon receipt of the request under Subsection (3)(d), the court shall enter a clarified
6664 order of judgment and commitment stating whether the sentence is to run concurrently or
6665 consecutively to the juvenile disposition.

6666 (4) If a court orders a sentence for imprisonment to run concurrently with a juvenile
6667 disposition for secure care, the defendant shall serve the sentence in secure care until the
6668 juvenile disposition is terminated by the authority in accordance with Section 80-6-804.

6669 (5) If a court orders a sentence for imprisonment in a county jail to run concurrently
6670 with a juvenile disposition for secure care and the disposition is terminated before the
6671 defendant's sentence for imprisonment in the county jail is terminated, the division shall:

6672 (a) notify the county jail at least 14 days before the day on which the defendant's
6673 disposition is terminated or the defendant is released from secure care; and

6674 (b) facilitate the transfer or release of the defendant in accordance with the order of
6675 judgment and commitment imposed by the court.

6676 (6) (a) If a court orders a sentence for imprisonment in a secure correctional facility to
6677 run concurrently with a juvenile disposition for secure care:

6678 (i) the board has authority over the defendant for purposes of ordering parole, pardon,
6679 commutation, termination of sentence, remission of fines or forfeitures, restitution, and any
6680 other authority granted by law; and

6681 (ii) the court and the division shall immediately notify the board that the defendant will
6682 remain in secure care as described in Subsection (4) for the board to schedule a hearing for the
6683 defendant in accordance with board procedures.

6684 (b) If a court orders a sentence for imprisonment in a secure correctional facility to run
6685 concurrently with a juvenile disposition for secure care and the juvenile disposition is
6686 terminated before the defendant's sentence is terminated, the division shall:

6687 (i) notify the board and the Department of Corrections at least 14 days before the day
6688 on which the defendant's disposition is terminated or the defendant is released from the secure
6689 care; and

6690 (ii) facilitate a release or transfer of the defendant in accordance with the order of
6691 judgment and commitment imposed by the court.

6692 Section 90. Section **76-5-101** is amended to read:

6693 **76-5-101. Definitions.**

6694 Unless otherwise provided, as used in this part:

6695 (1) "Detained individual" means an individual detained under Section [77-7-15](#).

6696 (2) "Prisoner" means an individual who is in custody of a peace officer pursuant to a
6697 lawful arrest or who is confined in a jail or other penal institution or a facility used for
6698 confinement of delinquent juveniles operated by the [~~Division of Juvenile Justice Services~~]
6699 Division of Juvenile Justice and Youth Services regardless of whether the confinement is legal.

6700 Section 91. Section **76-5-413** is amended to read:

6701 **76-5-413. Custodial sexual relations with youth receiving state services --**

6702 **Penalties -- Defenses and limitations.**

6703 (1) (a) As used in this section:

6704 (i) "Actor" means:

6705 (A) an individual employed by the Department of Health and Human Services created
6706 in Section [26B-1-201](#), or an employee of a private provider or contractor; or

- 6707 (B) an individual employed by the juvenile court of the state, or an employee of a
6708 private provider or contractor.
- 6709 (ii) "Department" means the Department of Health and Human Services created in
6710 Section 26B-1-201.
- 6711 (iii) "Juvenile court" means the juvenile court of the state created in Section
6712 78A-6-102.
- 6713 (iv) "Private provider or contractor" means a person that contracts with the:
6714 (A) department to provide services or functions that are part of the operation of the
6715 department; or
6716 (B) juvenile court to provide services or functions that are part of the operation of the
6717 juvenile court.
- 6718 (v) "Youth receiving state services" means an individual:
6719 (A) younger than 18 years old, except as provided under Subsection (1)(a)(v)(B), who
6720 is:
6721 (I) in the custody of the department under Section 80-6-703; or
6722 (II) receiving services from any division of the department if any portion of the costs of
6723 these services is covered by public money; or
6724 (B) younger than 21 years old:
6725 (I) who is in the custody of the [~~Division of Juvenile Justice Services~~] Division of
6726 Juvenile Justice and Youth Services, or the Division of Child and Family Services; or
6727 (II) whose case is under the jurisdiction of the juvenile court.
- 6728 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 6729 (2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an
6730 actor commits custodial sexual relations with a youth receiving state services if:
6731 (i) the actor commits any of the acts described in Subsection (2)(b); and
6732 (ii) (A) the actor knows that the individual is a youth receiving state services; or
6733 (B) a reasonable person in the actor's position should have known under the
6734 circumstances that the individual was a youth receiving state services.
- 6735 (b) Acts referred to in Subsection (2)(a)(i) are:
6736 (i) having sexual intercourse with a youth receiving state services;
6737 (ii) engaging in any sexual act with a youth receiving state services involving the

6738 genitals of one individual and the mouth or anus of another individual; or
6739 (iii) (A) causing the penetration, however slight, of the genital or anal opening of a
6740 youth receiving state services by any foreign object, substance, instrument, or device, including
6741 a part of the human body; and
6742 (B) with the intent to cause substantial emotional or bodily pain to any individual or
6743 with the intent to arouse or gratify the sexual desire of any individual.
6744 (c) Any touching, even if accomplished through clothing, is sufficient to constitute the
6745 relevant element of a violation of Subsection (2)(a).
6746 (3) (a) A violation of Subsection (2) is a third degree felony.
6747 (b) Notwithstanding Subsection (3)(a), if the youth receiving state services is younger
6748 than 18 years old, a violation of Subsection (2) is a second degree felony.
6749 (c) If the act committed under Subsection (2) amounts to an offense subject to a greater
6750 penalty under another provision of state law than is provided under this Subsection (3), this
6751 Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.
6752 (4) The offenses referred to in Subsection (2) are:
6753 (a) unlawful sexual activity with a minor, in violation of Section 76-5-401;
6754 (b) rape, in violation of Section 76-5-402;
6755 (c) rape of a child, in violation of Section 76-5-402.1;
6756 (d) object rape, in violation of Section 76-5-402.2;
6757 (e) object rape of a child, in violation of Section 76-5-402.3;
6758 (f) forcible sodomy, in violation of Section 76-5-403;
6759 (g) sodomy on a child, in violation of Section 76-5-403.1;
6760 (h) forcible sexual abuse, in violation of Section 76-5-404;
6761 (i) sexual abuse of a child, in violation of Section 76-5-404.1;
6762 (j) aggravated sexual abuse of a child, in violation of Section 76-5-404.3;
6763 (k) aggravated sexual assault, in violation of Section 76-5-405; or
6764 (l) an attempt to commit an offense listed in Subsections (4)(a) through (4)(k).
6765 (5) (a) It is not a defense to the commission of, or an attempt to commit, the offense
6766 described in Subsection (2) if the youth receiving state services is younger than 18 years old,
6767 that the actor:
6768 (i) mistakenly believed the youth receiving state services to be 18 years old or older at

6769 the time of the alleged offense; or

6770 (ii) was unaware of the true age of the youth receiving state services.

6771 (b) Consent of the youth receiving state services is not a defense to any violation or
6772 attempted violation of Subsection (2).

6773 (6) It is a defense that the commission by the actor of an act under Subsection (2) is the
6774 result of compulsion, as the defense is described in Subsection 76-2-302(1).

6775 Section 92. Section 76-8-311.5 is amended to read:

6776 **76-8-311.5. Aiding or concealing a juvenile offender -- Trespass of a secure care**
6777 **facility -- Criminal penalties.**

6778 (1) As used in this section:

6779 (a) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile
6780 Justice and Youth Services created in Section 80-5-103.

6781 (b) "Juvenile offender" means the same as that term is defined in Section 80-1-102.

6782 (c) "Secure care" means the same as that term is defined in Section 80-1-102.

6783 (d) "Secure care facility" means the same as that term is defined in Section 80-1-102.

6784 (2) An individual who commits any of the following offenses is guilty of a class A
6785 misdemeanor:

6786 (a) entering, or attempting to enter, a building or enclosure appropriated to the use of
6787 juvenile offenders, without permission;

6788 (b) entering any premises belonging to a secure care facility and committing or
6789 attempting to commit a trespass or damage on the premises of a secure care facility; or

6790 (c) willfully annoying or disturbing the peace and quiet of a secure care facility or of a
6791 juvenile offender in a secure care facility.

6792 (3) An individual is guilty of a third degree felony who:

6793 (a) knowingly harbors or conceals a juvenile offender who has:

6794 (i) escaped from secure care; or

6795 (ii) as described in Subsection (4), absconded from:

6796 (A) a facility or supervision; or

6797 (B) supervision of the division; or

6798 (b) willfully aided or assisted a juvenile offender who has been lawfully committed to a
6799 secure care facility in escaping or attempting to escape from the secure care facility.

6800 (4) As used in this section:

6801 (a) a juvenile offender absconds from a facility under this section when the juvenile
6802 offender:

6803 (i) leaves the facility without permission; or

6804 (ii) fails to return at a prescribed time.

6805 (b) A juvenile offender absconds from supervision when the juvenile offender:

6806 (i) changes the juvenile offender's residence from the residence that the juvenile
6807 offender reported to the division as the juvenile offender's correct address to another residence,
6808 without notifying the division or obtaining permission; or

6809 (ii) for the purpose of avoiding supervision:

6810 (A) hides at a different location from the juvenile offender's reported residence; or

6811 (B) leaves the juvenile offender's reported residence.

6812 Section 93. Section **77-16b-102** is amended to read:

6813 **77-16b-102. Definitions.**

6814 As used in this chapter:

6815 (1) "Correctional facility" means:

6816 (a) a county jail;

6817 (b) a secure correctional facility as defined by Section [64-13-1](#); or

6818 (c) a secure care facility as defined in Section [80-1-102](#).

6819 (2) "Correctional facility administrator" means:

6820 (a) a county sheriff in charge of a county jail;

6821 (b) a designee of the executive director of the Utah Department of Corrections; or

6822 (c) a designee of the director of the [~~Division of Juvenile Justice Services~~] Division of
6823 Juvenile Justice and Youth Services.

6824 (3) "Medical supervision" means under the direction of a licensed physician, physician
6825 assistant, or nurse practitioner.

6826 (4) "Mental health therapist" means the same as that term is defined in Section
6827 [58-60-102](#).

6828 (5) "Prisoner" means:

6829 (a) any individual who is a pretrial detainee or who has been committed to the custody
6830 of a sheriff or the Utah Department of Corrections, and who is physically in a correctional

6831 facility; and

6832 (b) any individual who is 18 years old or older and younger than 21 years old, and who
6833 has been committed to the custody of the [~~Division of Juvenile Justice Services~~] Division of
6834 Juvenile Justice and Youth Services.

6835 Section 94. Section **77-38-3** is amended to read:

6836 **77-38-3. Notification to victims -- Initial notice, election to receive subsequent**
6837 **notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact**
6838 **order.**

6839 (1) Within seven days after the day on which felony criminal charges are filed against a
6840 defendant, the prosecuting agency shall provide an initial notice to reasonably identifiable and
6841 locatable victims of the crime contained in the charges, except as otherwise provided in this
6842 chapter.

6843 (2) The initial notice to the victim of a crime shall provide information about electing
6844 to receive notice of subsequent important criminal justice hearings listed in Subsections
6845 **77-38-2(5)(a)** through (g) and rights under this chapter.

6846 (3) The prosecuting agency shall provide notice to a victim of a crime:

6847 (a) for the important criminal justice hearings, provided in Subsections **77-38-2(5)(a)**
6848 through (g), which the victim has requested; and

6849 (b) for a restitution request to be submitted in accordance with Section **77-38b-202**.

6850 (4) (a) The responsible prosecuting agency may provide initial and subsequent notices
6851 in any reasonable manner, including telephonically, electronically, orally, or by means of a
6852 letter or form prepared for this purpose.

6853 (b) In the event of an unforeseen important criminal justice hearing, described in
6854 Subsections **77-38-2(5)(a)** through (g) for which a victim has requested notice, a good faith
6855 attempt to contact the victim by telephone shall be considered sufficient notice, provided that
6856 the prosecuting agency subsequently notifies the victim of the result of the proceeding.

6857 (5) (a) The court shall take reasonable measures to ensure that its scheduling practices
6858 for the proceedings provided in Subsections **77-38-2(5)(a)** through (g) permit an opportunity
6859 for victims of crimes to be notified.

6860 (b) The court shall consider whether any notification system that the court might use to
6861 provide notice of judicial proceedings to defendants could be used to provide notice of judicial

6862 proceedings to victims of crimes.

6863 (6) A defendant or, if it is the moving party, the Division of Adult Probation and
6864 Parole, shall give notice to the responsible prosecuting agency of any motion for modification
6865 of any determination made at any of the important criminal justice hearings provided in
6866 Subsections 77-38-2(5)(a) through (g) in advance of any requested court hearing or action so
6867 that the prosecuting agency may comply with the prosecuting agency's notification obligation.

6868 (7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and
6869 Parole for the important criminal justice hearing under Subsection 77-38-2(5)(h).

6870 (b) The board may provide notice in any reasonable manner, including telephonically,
6871 electronically, orally, or by means of a letter or form prepared for this purpose.

6872 (8) Prosecuting agencies and the Board of Pardons and Parole are required to give
6873 notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through
6874 (g) only where the victim has responded to the initial notice, requested notice of subsequent
6875 proceedings, and provided a current address and telephone number if applicable.

6876 (9) To facilitate the payment of restitution and the notice of hearings regarding
6877 restitution, a victim who seeks restitution and notice of restitution hearings shall provide the
6878 court with the victim's current address and telephone number.

6879 (10) (a) Law enforcement and criminal justice agencies shall refer any requests for
6880 notice or information about crime victim rights from victims to the responsible prosecuting
6881 agency.

6882 (b) In a case in which the Board of Pardons and Parole is involved, the responsible
6883 prosecuting agency shall forward any request for notice the prosecuting agency has received
6884 from a victim to the Board of Pardons and Parole.

6885 (11) In all cases where the number of victims exceeds 10, the responsible prosecuting
6886 agency may send any notices required under this chapter in the prosecuting agency's discretion
6887 to a representative sample of the victims.

6888 (12) (a) A victim's address, telephone number, and victim impact statement maintained
6889 by a peace officer, prosecuting agency, Youth Parole Authority, [~~Division of Juvenile Justice~~
6890 ~~Services~~] Division of Juvenile Justice and Youth Services, Department of Corrections, Utah
6891 State Courts, and Board of Pardons and Parole, for purposes of providing notice under this
6892 section, are classified as protected under Subsection 63G-2-305(10).

6893 (b) The victim's address, telephone number, and victim impact statement is available
6894 only to the following persons or entities in the performance of their duties:

6895 (i) a law enforcement agency, including the prosecuting agency;

6896 (ii) a victims' right committee as provided in Section 77-37-5;

6897 (iii) a governmentally sponsored victim or witness program;

6898 (iv) the Department of Corrections;

6899 (v) the Utah Office for Victims of Crime;

6900 (vi) the Commission on Criminal and Juvenile Justice;

6901 (vii) the Utah State Courts; and

6902 (viii) the Board of Pardons and Parole.

6903 (13) The notice provisions as provided in this section do not apply to misdemeanors as
6904 provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section
6905 77-38-2.

6906 (14) (a) When a defendant is charged with a felony crime under Sections 76-5-301
6907 through 76-5-310.1 regarding kidnapping, human trafficking, and human smuggling; Sections
6908 76-5-401 through 76-5-413.2 regarding sexual offenses; or Section 76-10-1306 regarding
6909 aggravated exploitation of prostitution, the court may, during any court hearing where the
6910 defendant is present, issue a pretrial criminal no contact order:

6911 (i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise
6912 communicating with the victim directly or through a third party;

6913 (ii) ordering the defendant to stay away from the residence, school, place of
6914 employment of the victim, and the premises of any of these, or any specified place frequented
6915 by the victim or any designated family member of the victim directly or through a third party;
6916 and

6917 (iii) ordering any other relief that the court considers necessary to protect and provide
6918 for the safety of the victim and any designated family or household member of the victim.

6919 (b) Violation of a pretrial criminal no contact order issued pursuant to this section is a
6920 third degree felony.

6921 (c) (i) The court shall provide to the victim a certified copy of any pretrial criminal no
6922 contact order that has been issued if the victim can be located with reasonable effort.

6923 (ii) The court shall also transmit the pretrial criminal no contact order to the statewide

6924 domestic violence network in accordance with Section 78B-7-113.

6925 (15) (a) When a case involving a victim may resolve before trial with a plea deal, the
6926 prosecutor shall notify the victim of that possibility as soon as practicable.

6927 (b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall
6928 explain the available details of an anticipated plea deal.

6929 Section 95. Section 77-41-102 (Superseded 07/01/24) is amended to read:

6930 **77-41-102 (Superseded 07/01/24). Definitions.**

6931 As used in this chapter:

6932 (1) "Bureau" means the Bureau of Criminal Identification of the Department of Public
6933 Safety established in section 53-10-201.

6934 (2) "Business day" means a day on which state offices are open for regular business.

6935 (3) "Certificate of eligibility" means a document issued by the Bureau of Criminal
6936 Identification showing that the offender has met the requirements of Section 77-41-112.

6937 (4) (a) "Convicted" means a plea or conviction of:

6938 (i) guilty;

6939 (ii) guilty with a mental condition; or

6940 (iii) no contest.

6941 (b) "Convicted" includes, unless otherwise specified, the period a plea is held in
6942 abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.

6943 (c) "Convicted" does not include:

6944 (i) a withdrawn or dismissed plea in abeyance;

6945 (ii) a diversion agreement; or

6946 (iii) an adjudication of a minor for an offense under Section 80-6-701.

6947 (5) "Department" means the Department of Corrections.

6948 (6) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile
6949 Justice and Youth Services.

6950 (7) "Employed" or "carries on a vocation" includes employment that is full time or part
6951 time, whether financially compensated, volunteered, or for the purpose of government or
6952 educational benefit.

6953 (8) "Indian Country" means:

6954 (a) all land within the limits of any Indian reservation under the jurisdiction of the

6955 United States government, regardless of the issuance of any patent, and includes rights-of-way
6956 running through the reservation;

6957 (b) all dependent Indian communities within the borders of the United States whether
6958 within the original or subsequently acquired territory, and whether or not within the limits of a
6959 state; and

6960 (c) all Indian allotments, including the Indian allotments to which the Indian titles have
6961 not been extinguished, including rights-of-way running through the allotments.

6962 (9) "Jurisdiction" means any state, Indian Country, United States Territory, or any
6963 property under the jurisdiction of the United States military, Canada, the United Kingdom,
6964 Australia, or New Zealand.

6965 (10) "Kidnap offender" means any individual, other than a natural parent of the victim:

6966 (a) who has been convicted in this state of a violation of:

6967 (i) Subsection 76-5-301(2)(c) or (d), kidnapping;

6968 (ii) Section 76-5-301.1, child kidnapping;

6969 (iii) Section 76-5-302, aggravated kidnapping;

6970 (iv) Section 76-5-308, human trafficking for labor;

6971 (v) Section 76-5-308.3, human smuggling;

6972 (vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18
6973 years old;

6974 (vii) Section 76-5-308.5, human trafficking of a child for labor;

6975 (viii) Section 76-5-310, aggravated human trafficking;

6976 (ix) Section 76-5-310.1, aggravated human smuggling;

6977 (x) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

6978 (xi) attempting, soliciting, or conspiring to commit any felony offense listed in

6979 Subsections (10)(a)(i) through (x);

6980 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy
6981 to commit a crime in another jurisdiction, including any state, federal, or military court that is
6982 substantially equivalent to the offenses listed in Subsection (10)(a); and

6983 (ii) who is:

6984 (A) a Utah resident; or

6985 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of

6986 10 or more days, regardless of whether or not the offender intends to permanently reside in this
6987 state;

6988 (c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction of
6989 original conviction;

6990 (B) who is required to register as a kidnap offender by any state, federal, or military
6991 court; or

6992 (C) who would be required to register as a kidnap offender if residing in the
6993 jurisdiction of the conviction regardless of the date of the conviction or any previous
6994 registration requirements; and

6995 (ii) in any 12-month period, who is in this state for a total of 10 or more days,
6996 regardless of whether or not the offender intends to permanently reside in this state;

6997 (d) (i) (A) who is a nonresident regularly employed or working in this state; or

6998 (B) who is a student in this state; and

6999 (ii) (A) who was convicted of one or more offenses listed in Subsection (10), or any
7000 substantially equivalent offense in another jurisdiction; or

7001 (B) as a result of the conviction, who is required to register in the individual's state of
7002 residence;

7003 (e) who is found not guilty by reason of insanity in this state or in any other jurisdiction
7004 of one or more offenses listed in Subsection (10); or

7005 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
7006 Subsection (10)(a); and

7007 (ii) who has been committed to the division for secure care, as defined in Section
7008 80-1-102, for that offense if:

7009 (A) the individual remains in the division's custody until 30 days before the individual's
7010 21st birthday;

7011 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
7012 under Section 80-6-605 and the individual remains in the division's custody until 30 days
7013 before the individual's 25th birthday; or

7014 (C) the individual is moved from the division's custody to the custody of the
7015 department before expiration of the division's jurisdiction over the individual.

7016 (11) "Natural parent" means a minor's biological or adoptive parent, and includes the

7017 minor's noncustodial parent.

7018 (12) "Offender" means a kidnap offender as defined in Subsection (10) or a sex
7019 offender as defined in Subsection (18).

7020 (13) "Online identifier" or "Internet identifier":

7021 (a) means any electronic mail, chat, instant messenger, social networking, or similar
7022 name used for Internet communication; and

7023 (b) does not include date of birth, social security number, PIN number, or Internet
7024 passwords.

7025 (14) "Primary residence" means the location where the offender regularly resides, even
7026 if the offender intends to move to another location or return to another location at any future
7027 date.

7028 (15) "Register" means to comply with the requirements of this chapter and
7029 administrative rules of the department made under this chapter.

7030 (16) "Registration website" means the Sex and Kidnap Offender Notification and
7031 Registration website described in Section 77-41-110 and the information on the website.

7032 (17) "Secondary residence" means any real property that the offender owns or has a
7033 financial interest in, or any location where, in any 12-month period, the offender stays
7034 overnight a total of 10 or more nights when not staying at the offender's primary residence.

7035 (18) "Sex offender" means any individual:

7036 (a) convicted in this state of:

7037 (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

7038 (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult;

7039 (iii) Section 76-5-308.1, human trafficking for sexual exploitation;

7040 (iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

7041 (v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

7042 (vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

7043 (vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in
7044 Subsection 76-5-401(3)(b) or (c);

7045 (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection
7046 76-5-401.1(3);

7047 (ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

- 7048 (x) Section 76-5-402, rape;
- 7049 (xi) Section 76-5-402.1, rape of a child;
- 7050 (xii) Section 76-5-402.2, object rape;
- 7051 (xiii) Section 76-5-402.3, object rape of a child;
- 7052 (xiv) a felony violation of Section 76-5-403, forcible sodomy;
- 7053 (xv) Section 76-5-403.1, sodomy on a child;
- 7054 (xvi) Section 76-5-404, forcible sexual abuse;
- 7055 (xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated
7056 sexual abuse of a child;
- 7057 (xviii) Section 76-5-405, aggravated sexual assault;
- 7058 (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is
7059 younger than 18 years old, if the offense is committed on or after May 10, 2011;
- 7060 (xx) Section 76-5b-201, sexual exploitation of a minor;
- 7061 (xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;
- 7062 (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
- 7063 (xxiii) Section 76-7-102, incest;
- 7064 (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense
7065 four or more times;
- 7066 (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the
7067 offense four or more times;
- 7068 (xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section
7069 76-9-702.1, sexual battery, that total four or more convictions;
- 7070 (xxvii) Section 76-9-702.5, lewdness involving a child;
- 7071 (xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
- 7072 (xxix) Section 76-10-1306, aggravated exploitation of prostitution; or
- 7073 (xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this
7074 Subsection (18)(a);
- 7075 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy
7076 to commit a crime in another jurisdiction, including any state, federal, or military court that is
7077 substantially equivalent to the offenses listed in Subsection (18)(a); and
- 7078 (ii) who is:

- 7079 (A) a Utah resident; or
- 7080 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of
- 7081 10 or more days, regardless of whether the offender intends to permanently reside in this state;
- 7082 (c) (i) (A) who is required to register as a sex offender in any other jurisdiction of
- 7083 original conviction;
- 7084 (B) who is required to register as a sex offender by any state, federal, or military court;
- 7085 or
- 7086 (C) who would be required to register as a sex offender if residing in the jurisdiction of
- 7087 the original conviction regardless of the date of the conviction or any previous registration
- 7088 requirements; and
- 7089 (ii) who, in any 12-month period, is in the state for a total of 10 or more days,
- 7090 regardless of whether or not the offender intends to permanently reside in this state;
- 7091 (d) (i) (A) who is a nonresident regularly employed or working in this state; or
- 7092 (B) who is a student in this state; and
- 7093 (ii) (A) who was convicted of one or more offenses listed in Subsection (18)(a), or any
- 7094 substantially equivalent offense in any jurisdiction; or
- 7095 (B) who is, as a result of the conviction, required to register in the individual's
- 7096 jurisdiction of residence;
- 7097 (e) who is found not guilty by reason of insanity in this state, or in any other
- 7098 jurisdiction of one or more offenses listed in Subsection (18)(a); or
- 7099 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
- 7100 Subsection (18)(a); and
- 7101 (ii) who has been committed to the division for secure care, as defined in Section
- 7102 80-1-102, for that offense if:
- 7103 (A) the individual remains in the division's custody until 30 days before the individual's
- 7104 21st birthday;
- 7105 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
- 7106 under Section 80-6-605 and the individual remains in the division's custody until 30 days
- 7107 before the individual's 25th birthday; or
- 7108 (C) the individual is moved from the division's custody to the custody of the
- 7109 department before expiration of the division's jurisdiction over the individual.

7110 (19) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5,
7111 Driving Under the Influence and Reckless Driving.

7112 (20) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in
7113 any jurisdiction.

7114 Section 96. Section **77-41-102 (Effective 07/01/24)** is amended to read:

7115 **77-41-102 (Effective 07/01/24). Definitions.**

7116 As used in this chapter:

7117 (1) "Bureau" means the Bureau of Criminal Identification of the Department of Public
7118 Safety established in section [53-10-201](#).

7119 (2) "Business day" means a day on which state offices are open for regular business.

7120 (3) "Certificate of eligibility" means a document issued by the Bureau of Criminal
7121 Identification showing that the offender has met the requirements of Section [77-41-112](#).

7122 (4) (a) "Convicted" means a plea or conviction of:

7123 (i) guilty;

7124 (ii) guilty with a mental illness; or

7125 (iii) no contest.

7126 (b) "Convicted" includes, unless otherwise specified, the period a plea is held in
7127 abeyance pursuant to a plea in abeyance agreement as defined in Section [77-2a-1](#).

7128 (c) "Convicted" does not include:

7129 (i) a withdrawn or dismissed plea in abeyance;

7130 (ii) a diversion agreement; or

7131 (iii) an adjudication of a minor for an offense under Section [80-6-701](#).

7132 (5) "Department" means the Department of Public Safety.

7133 (6) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile
7134 Justice and Youth Services.

7135 (7) "Employed" or "carries on a vocation" includes employment that is full time or part
7136 time, whether financially compensated, volunteered, or for the purpose of government or
7137 educational benefit.

7138 (8) "Indian Country" means:

7139 (a) all land within the limits of any Indian reservation under the jurisdiction of the
7140 United States government, regardless of the issuance of any patent, and includes rights-of-way

7141 running through the reservation;

7142 (b) all dependent Indian communities within the borders of the United States whether
7143 within the original or subsequently acquired territory, and whether or not within the limits of a
7144 state; and

7145 (c) all Indian allotments, including the Indian allotments to which the Indian titles have
7146 not been extinguished, including rights-of-way running through the allotments.

7147 (9) "Jurisdiction" means any state, Indian Country, United States Territory, or any
7148 property under the jurisdiction of the United States military, Canada, the United Kingdom,
7149 Australia, or New Zealand.

7150 (10) "Kidnap offender" means any individual, other than a natural parent of the victim:

7151 (a) who has been convicted in this state of a violation of:

7152 (i) Subsection 76-5-301(2)(c) or (d), kidnapping;

7153 (ii) Section 76-5-301.1, child kidnapping;

7154 (iii) Section 76-5-302, aggravated kidnapping;

7155 (iv) Section 76-5-308, human trafficking for labor;

7156 (v) Section 76-5-308.3, human smuggling;

7157 (vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18
7158 years old;

7159 (vii) Section 76-5-308.5, human trafficking of a child for labor;

7160 (viii) Section 76-5-310, aggravated human trafficking;

7161 (ix) Section 76-5-310.1, aggravated human smuggling;

7162 (x) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

7163 (xi) attempting, soliciting, or conspiring to commit any felony offense listed in
7164 Subsections (10)(a)(i) through (x);

7165 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy
7166 to commit a crime in another jurisdiction, including any state, federal, or military court that is
7167 substantially equivalent to the offenses listed in Subsection (10)(a); and

7168 (ii) who is:

7169 (A) a Utah resident; or

7170 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of
7171 10 or more days, regardless of whether or not the offender intends to permanently reside in this

7172 state;

7173 (c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction of
7174 original conviction;

7175 (B) who is required to register as a kidnap offender by any state, federal, or military
7176 court; or

7177 (C) who would be required to register as a kidnap offender if residing in the
7178 jurisdiction of the conviction regardless of the date of the conviction or any previous
7179 registration requirements; and

7180 (ii) in any 12-month period, who is in this state for a total of 10 or more days,
7181 regardless of whether or not the offender intends to permanently reside in this state;

7182 (d) (i) (A) who is a nonresident regularly employed or working in this state; or

7183 (B) who is a student in this state; and

7184 (ii) (A) who was convicted of one or more offenses listed in Subsection (10), or any
7185 substantially equivalent offense in another jurisdiction; or

7186 (B) as a result of the conviction, who is required to register in the individual's state of
7187 residence;

7188 (e) who is found not guilty by reason of insanity in this state or in any other jurisdiction
7189 of one or more offenses listed in Subsection (10); or

7190 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
7191 Subsection (10)(a); and

7192 (ii) who has been committed to the division for secure care, as defined in Section
7193 80-1-102, for that offense if:

7194 (A) the individual remains in the division's custody until 30 days before the individual's
7195 21st birthday;

7196 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
7197 under Section 80-6-605 and the individual remains in the division's custody until 30 days
7198 before the individual's 25th birthday; or

7199 (C) the individual is moved from the division's custody to the custody of the
7200 department before expiration of the division's jurisdiction over the individual.

7201 (11) "Natural parent" means a minor's biological or adoptive parent, and includes the
7202 minor's noncustodial parent.

7203 (12) "Offender" means a kidnap offender as defined in Subsection (10) or a sex
7204 offender as defined in Subsection (18).

7205 (13) "Online identifier" or "Internet identifier":

7206 (a) means any electronic mail, chat, instant messenger, social networking, or similar
7207 name used for Internet communication; and

7208 (b) does not include date of birth, social security number, PIN number, or Internet
7209 passwords.

7210 (14) "Primary residence" means the location where the offender regularly resides, even
7211 if the offender intends to move to another location or return to another location at any future
7212 date.

7213 (15) "Register" means to comply with the requirements of this chapter and
7214 administrative rules of the department made under this chapter.

7215 (16) "Registration website" means the Sex and Kidnap Offender Notification and
7216 Registration website described in Section 77-41-110 and the information on the website.

7217 (17) "Secondary residence" means any real property that the offender owns or has a
7218 financial interest in, or any location where, in any 12-month period, the offender stays
7219 overnight a total of 10 or more nights when not staying at the offender's primary residence.

7220 (18) "Sex offender" means any individual:

7221 (a) convicted in this state of:

7222 (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

7223 (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult;

7224 (iii) Section 76-5-308.1, human trafficking for sexual exploitation;

7225 (iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

7226 (v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

7227 (vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

7228 (vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in
7229 Subsection 76-5-401(3)(b) or (c);

7230 (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection
7231 76-5-401.1(3);

7232 (ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

7233 (x) Section 76-5-402, rape;

- 7234 (xi) Section 76-5-402.1, rape of a child;
- 7235 (xii) Section 76-5-402.2, object rape;
- 7236 (xiii) Section 76-5-402.3, object rape of a child;
- 7237 (xiv) a felony violation of Section 76-5-403, forcible sodomy;
- 7238 (xv) Section 76-5-403.1, sodomy on a child;
- 7239 (xvi) Section 76-5-404, forcible sexual abuse;
- 7240 (xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated
- 7241 sexual abuse of a child;
- 7242 (xviii) Section 76-5-405, aggravated sexual assault;
- 7243 (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is
- 7244 younger than 18 years old, if the offense is committed on or after May 10, 2011;
- 7245 (xx) Section 76-5b-201, sexual exploitation of a minor;
- 7246 (xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;
- 7247 (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
- 7248 (xxiii) Section 76-7-102, incest;
- 7249 (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense
- 7250 four or more times;
- 7251 (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the
- 7252 offense four or more times;
- 7253 (xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section
- 7254 76-9-702.1, sexual battery, that total four or more convictions;
- 7255 (xxvii) Section 76-9-702.5, lewdness involving a child;
- 7256 (xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
- 7257 (xxix) Section 76-10-1306, aggravated exploitation of prostitution; or
- 7258 (xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this
- 7259 Subsection (18)(a);
- 7260 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy
- 7261 to commit a crime in another jurisdiction, including any state, federal, or military court that is
- 7262 substantially equivalent to the offenses listed in Subsection (18)(a); and
- 7263 (ii) who is:
- 7264 (A) a Utah resident; or

7265 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of
7266 10 or more days, regardless of whether the offender intends to permanently reside in this state;

7267 (c) (i) (A) who is required to register as a sex offender in any other jurisdiction of
7268 original conviction;

7269 (B) who is required to register as a sex offender by any state, federal, or military court;
7270 or

7271 (C) who would be required to register as a sex offender if residing in the jurisdiction of
7272 the original conviction regardless of the date of the conviction or any previous registration
7273 requirements; and

7274 (ii) who, in any 12-month period, is in the state for a total of 10 or more days,
7275 regardless of whether or not the offender intends to permanently reside in this state;

7276 (d) (i) (A) who is a nonresident regularly employed or working in this state; or

7277 (B) who is a student in this state; and

7278 (ii) (A) who was convicted of one or more offenses listed in Subsection (18)(a), or any
7279 substantially equivalent offense in any jurisdiction; or

7280 (B) who is, as a result of the conviction, required to register in the individual's
7281 jurisdiction of residence;

7282 (e) who is found not guilty by reason of insanity in this state, or in any other
7283 jurisdiction of one or more offenses listed in Subsection (18)(a); or

7284 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
7285 Subsection (18)(a); and

7286 (ii) who has been committed to the division for secure care, as defined in Section
7287 80-1-102, for that offense if:

7288 (A) the individual remains in the division's custody until 30 days before the individual's
7289 21st birthday;

7290 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
7291 under Section 80-6-605 and the individual remains in the division's custody until 30 days
7292 before the individual's 25th birthday; or

7293 (C) the individual is moved from the division's custody to the custody of the
7294 department before expiration of the division's jurisdiction over the individual.

7295 (19) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5,

7296 Driving Under the Influence and Reckless Driving.

7297 (20) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in
7298 any jurisdiction.

7299 Section 97. Section **78A-6-212** is amended to read:

7300 **78A-6-212. Information supplied to the Division of Juvenile Justice and Youth**
7301 **Services.**

7302 (1) A juvenile probation officer shall render full and complete cooperation to the
7303 [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services in
7304 supplying the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth
7305 Services with all pertinent information relating to a juvenile offender committed to the
7306 [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services.

7307 (2) Information under Subsection (1) includes prior criminal history, social history,
7308 psychological evaluations, and identifying information specified by the [~~Division of Juvenile~~
7309 ~~Justice Services~~] Division of Juvenile Justice and Youth Services.

7310 Section 98. Section **78B-7-804** is amended to read:

7311 **78B-7-804. Sentencing and continuous protective orders for a domestic violence**
7312 **offense -- Modification -- Expiration.**

7313 (1) Before a perpetrator who has been convicted of or adjudicated for a domestic
7314 violence offense may be placed on probation, the court shall consider the safety and protection
7315 of the victim and any member of the victim's family or household.

7316 (2) The court may condition probation or a plea in abeyance on the perpetrator's
7317 compliance with a sentencing protective order that includes:

7318 (a) an order enjoining the perpetrator from threatening to commit or committing acts of
7319 domestic violence against the victim or other family or household member;

7320 (b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or
7321 otherwise communicating with the victim, directly or indirectly;

7322 (c) an order requiring the perpetrator to stay away from the victim's residence, school,
7323 place of employment, and the premises of any of these, or a specified place frequented
7324 regularly by the victim or any designated family or household member;

7325 (d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm
7326 or other specified weapon;

7327 (e) an order directing the perpetrator to surrender any weapons the perpetrator owns or
7328 possesses; and

7329 (f) an order imposing any other condition necessary to protect the victim and any other
7330 designated family or household member or to rehabilitate the perpetrator.

7331 (3) (a) Because of the serious, unique, and highly traumatic nature of domestic violence
7332 crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of
7333 continued acts of violence subsequent to the release of a perpetrator who is convicted of or
7334 adjudicated for domestic violence, it is the finding of the Legislature that domestic violence
7335 crimes warrant the issuance of continuous protective orders under this Subsection (3) because
7336 of the need to provide ongoing protection for the victim and to be consistent with the purposes
7337 of protecting victims' rights under Title 77, Chapter 38, Crime Victims, and Article I, Section
7338 28 of the Utah Constitution.

7339 (b) Except as provided in Subsection (6), if a perpetrator is convicted of a domestic
7340 violence offense resulting in a sentence of imprisonment, including jail, that is to be served
7341 after conviction, the court shall issue a continuous protective order at the time of the conviction
7342 or sentencing limiting the contact between the perpetrator and the victim unless:

7343 (i) the court determines by clear and convincing evidence that the victim does not a
7344 have a reasonable fear of future harm or abuse; and

7345 (ii) the court conducts a hearing.

7346 (c) (i) The court shall notify the perpetrator of the right to request a hearing.

7347 (ii) A victim has a right to request a hearing.

7348 (iii) If the perpetrator or the victim requests a hearing under this Subsection (3)(c), the
7349 court shall hold the hearing at the time determined by the court.

7350 (iv) The continuous protective order shall be in effect while the hearing is being
7351 scheduled and while the hearing is pending.

7352 (v) A prosecutor shall use reasonable efforts to notify a victim of a hearing described in
7353 Subsection (3)(b)(ii).

7354 (d) A continuous protective order is permanent in accordance with this Subsection (3)
7355 and may include:

7356 (i) an order enjoining the perpetrator from threatening to commit or committing acts of
7357 domestic violence against the victim or other family or household member;

7358 (ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or
7359 otherwise communicating with the victim, directly or indirectly;

7360 (iii) an order prohibiting the perpetrator from going to the victim's residence, school,
7361 place of employment, and the premises of any of these, or a specified place frequented
7362 regularly by the victim or any designated family or other household member;

7363 (iv) an order directing the perpetrator to pay restitution to the victim as may apply, and
7364 shall be enforced in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act; and

7365 (v) any other order the court considers necessary to fully protect the victim and
7366 members of the victim's family or other household member.

7367 (4) A continuous protective order may be modified or dismissed only if the court
7368 determines by clear and convincing evidence that all requirements of Subsection (3) have been
7369 met and the victim does not have a reasonable fear of future harm or abuse.

7370 (5) Except as provided in Subsection (6), in addition to the process of issuing a
7371 continuous protective order described in Subsection (3), a district court may issue a continuous
7372 protective order at any time if the victim files a petition with the court, and after notice and
7373 hearing the court finds that a continuous protective order is necessary to protect the victim.

7374 (6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court
7375 under Section 80-6-504, a continuous protective order may not be issued under this section
7376 against a perpetrator who is a minor.

7377 (b) Unless the court sets an earlier date for expiration, a sentencing protective order
7378 issued under this section against a perpetrator who is a minor expires on the earlier of:

7379 (i) the day on which the juvenile court terminates jurisdiction; or

7380 (ii) in accordance with Section 80-6-807, the day on which the [~~Division of Juvenile~~
7381 ~~Justice Services~~] Division of Juvenile Justice and Youth Services discharges the perpetrator.

7382 Section 99. Section 78B-7-805 is amended to read:

7383 **78B-7-805. Sentencing protective orders and continuous protective orders for an**
7384 **offense that is not domestic violence -- Modification -- Expiration.**

7385 (1) Before a perpetrator has been convicted of or adjudicated for an offense that is not
7386 domestic violence is placed on probation, the court may consider the safety and protection of
7387 the victim and any member of the victim's family or household.

7388 (2) The court may condition probation or a plea in abeyance on the perpetrator's

7389 compliance with a sentencing protective order that includes:

7390 (a) an order enjoining the perpetrator from threatening to commit or committing acts of
7391 domestic violence against the victim or other family or household member;

7392 (b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or
7393 otherwise communicating with the victim, directly or indirectly;

7394 (c) an order requiring the perpetrator to stay away from the victim's residence, school,
7395 place of employment, and the premises of any of these, or a specified place frequented
7396 regularly by the victim or any designated family or household member;

7397 (d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm
7398 or other specified weapon;

7399 (e) an order directing the perpetrator to surrender any weapons the perpetrator owns or
7400 possesses; and

7401 (f) an order imposing any other condition necessary to protect the victim and any other
7402 designated family or household member or to rehabilitate the perpetrator.

7403 (3) (a) If a perpetrator is convicted of an offense that is not domestic violence resulting
7404 in a sentence of imprisonment that is to be served after conviction, the court may issue a
7405 continuous protective order at the time of the conviction or sentencing limiting the contact
7406 between the perpetrator and the victim if the court determines by clear and convincing evidence
7407 that the victim has a reasonable fear of future harm or abuse.

7408 (b) (i) The court shall notify the perpetrator of the right to request a hearing.

7409 (ii) If the perpetrator requests a hearing under this Subsection (3), the court shall hold
7410 the hearing at the time determined by the court and the continuous protective order shall be in
7411 effect while the hearing is being scheduled and while the hearing is pending.

7412 (c) Except as provided in Subsection (6), a continuous protective order is permanent in
7413 accordance with this Subsection (3)(c) and may include any order described in Subsection
7414 [78B-7-804\(3\)\(c\)](#).

7415 (4) A continuous protective order issued under this section may be modified or
7416 dismissed only in accordance with Subsection [78B-7-804\(4\)](#).

7417 (5) Except as provided in Subsection (6), in addition to the process of issuing a
7418 continuous protective order described in Subsection (3)(a), a district court may issue a
7419 continuous protective order at any time in accordance with Subsection [78B-7-804\(5\)](#).

7420 (6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court
7421 under Section 80-6-504, a continuous protective order may not be issued under this section
7422 against a perpetrator who is a minor.

7423 (b) Unless the court sets an earlier date for expiration, a sentencing protective order
7424 issued under this section against a perpetrator who is a minor expires on the earlier of:

7425 (i) the day on which the juvenile court terminates jurisdiction; or

7426 (ii) in accordance with Section 80-6-807, the day on which the ~~[Division of Juvenile~~
7427 ~~Justice Services]~~ Division of Juvenile Justice and Youth Services discharges the perpetrator.

7428 Section 100. Section 78B-24-307 is amended to read:

7429 **78B-24-307. Child-placing agency compliance.**

7430 (1) ~~[The Office of Licensing]~~ The Division of Licensing and Background Checks,
7431 created in Section 26B-2-103, may investigate an allegation that a child-placing agency has
7432 failed to comply with this part and commence an action for injunctive or other relief or initiate
7433 administrative proceedings against the child-placing agency to enforce this part.

7434 (2) (a) The Office of Licensing may initiate a proceeding to determine whether a
7435 child-placing agency has failed to comply with this part.

7436 (b) If the Office of Licensing finds that the child-placing agency has failed to comply,
7437 the Office of Licensing may suspend or revoke the child-placing agency's license or take other
7438 action permitted by law of the state.

7439 Section 101. Section 78B-24-308 is amended to read:

7440 **78B-24-308. Rulemaking authority.**

7441 ~~[The Office of Licensing]~~ The Division of Licensing and Background Checks, created
7442 in Section 26B-2-103, may adopt rules under Title 63G, Chapter 3, Utah Administrative
7443 Rulemaking Act, to implement Sections 78B-24-303, 78B-24-304, 78B-24-305, and
7444 78B-24-306.

7445 Section 102. Section 80-2-301 is amended to read:

7446 **80-2-301. Division responsibilities.**

7447 (1) The division is the child, youth, and family services authority of the state.

7448 (2) The division shall:

7449 (a) administer services to minors and families, including:

7450 (i) child welfare services;

- 7451 (ii) domestic violence services; and
- 7452 (iii) all other responsibilities that the Legislature or the executive director of the
- 7453 department may assign to the division;
- 7454 (b) provide the following services:
- 7455 (i) financial and other assistance to an individual adopting a child with special needs
- 7456 under Sections 80-2-806 through 80-2-809, not to exceed the amount the division would
- 7457 provide for the child as a legal ward of the state;
- 7458 (ii) non-custodial and in-home services in accordance with Section 80-2-306,
- 7459 including:
- 7460 (A) services designed to prevent family break-up; and
- 7461 (B) family preservation services;
- 7462 (iii) reunification services to families whose children are in substitute care in
- 7463 accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and
- 7464 Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 7465 (iv) protective supervision of a family, upon court order, in an effort to eliminate abuse
- 7466 or neglect of a child in that family;
- 7467 (v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective
- 7468 Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 7469 (vi) domestic violence services, in accordance with the requirements of federal law;
- 7470 (vii) protective services to victims of domestic violence and the victims' children, in
- 7471 accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and
- 7472 Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 7473 (viii) substitute care for dependent, abused, and neglected children;
- 7474 (ix) services for minors who are victims of human trafficking or human smuggling, as
- 7475 described in Sections 76-5-308 through 76-5-310.1, or who have engaged in prostitution or
- 7476 sexual solicitation, as defined in Sections 76-10-1302 and 76-10-1313; and
- 7477 (x) training for staff and providers involved in the administration and delivery of
- 7478 services offered by the division in accordance with this chapter and Chapter 2a, Removal and
- 7479 Protective Custody of a Child;
- 7480 (c) establish standards for all:
- 7481 (i) contract providers of out-of-home care for minors and families;

- 7482 (ii) facilities that provide substitute care for dependent, abused, or neglected children
7483 placed in the custody of the division; and
- 7484 (iii) direct or contract providers of domestic violence services described in Subsection
7485 (2)(b)(vi);
- 7486 (d) have authority to:
- 7487 (i) contract with a private, nonprofit organization to recruit and train foster care
7488 families and child welfare volunteers in accordance with Section 80-2-405; and
- 7489 (ii) approve facilities that meet the standards established under Subsection (2)(c) to
7490 provide substitute care for dependent, abused, or neglected children placed in the custody of the
7491 division;
- 7492 (e) cooperate with the federal government in the administration of child welfare and
7493 domestic violence programs and other human service activities assigned by the department;
- 7494 (f) in accordance with Subsection (5)(a), promote and enforce state and federal laws
7495 enacted for the protection of abused, neglected, or dependent children, in accordance with this
7496 chapter and Chapter 2a, Removal and Protective Custody of a Child, unless administration is
7497 expressly vested in another division or department of the state;
- 7498 (g) cooperate with the Workforce Development Division within the Department of
7499 Workforce Services in meeting the social and economic needs of an individual who is eligible
7500 for public assistance;
- 7501 (h) compile relevant information, statistics, and reports on child and family service
7502 matters in the state;
- 7503 (i) prepare and submit to the department, the governor, and the Legislature reports of
7504 the operation and administration of the division in accordance with the requirements of
7505 Sections 80-2-1102 and 80-2-1103;
- 7506 (j) within appropriations from the Legislature, provide or contract for a variety of
7507 domestic violence services and treatment methods;
- 7508 (k) enter into contracts for programs designed to reduce the occurrence or recurrence of
7509 abuse and neglect in accordance with Section 80-2-503;
- 7510 (l) seek reimbursement of funds the division expends on behalf of a child in the
7511 protective custody, temporary custody, or custody of the division, from the child's parent or
7512 guardian in accordance with an order for child support under Section 78A-6-356;

7513 (m) ensure regular, periodic publication, including electronic publication, regarding the
7514 number of children in the custody of the division who:

7515 (i) have a permanency goal of adoption; or

7516 (ii) have a final plan of termination of parental rights, under Section 80-3-409, and
7517 promote adoption of the children;

7518 (n) subject to Subsections (5) and (7), refer an individual receiving services from the
7519 division to the local substance abuse authority or other private or public resource for a
7520 court-ordered drug screening test;

7521 (o) report before November 30, 2020, and every third year thereafter, to the Social
7522 Services Appropriations Subcommittee regarding:

7523 (i) the daily reimbursement rate that is provided to licensed foster parents based on
7524 level of care;

7525 (ii) the amount of money spent on daily reimbursements for licensed foster parents
7526 during the previous fiscal year; and

7527 (iii) any recommended changes to the division's budget to support the daily
7528 reimbursement rates described in Subsection (2)(o)(i); and

7529 (p) perform other duties and functions required by law.

7530 (3) (a) The division may provide, directly or through contract, services that include the
7531 following:

7532 (i) adoptions;

7533 (ii) day-care services;

7534 (iii) out-of-home placements for minors;

7535 (iv) health-related services;

7536 (v) homemaking services;

7537 (vi) home management services;

7538 (vii) protective services for minors;

7539 (viii) transportation services; or

7540 (ix) domestic violence services.

7541 (b) The division shall monitor services provided directly by the division or through
7542 contract to ensure compliance with applicable law and rules made in accordance with Title
7543 63G, Chapter 3, Utah Administrative Rulemaking Act.

7544 (c) (i) Except as provided in Subsection (3)(c)(ii), if the division provides a service
7545 through a private contract, the division shall post the name of the service provider on the
7546 division's website.

7547 (ii) Subsection (3)(c)(i) does not apply to a foster parent placement.

7548 (4) (a) The division may:

7549 (i) receive gifts, grants, devises, and donations;

7550 (ii) encourage merchants and service providers to:

7551 (A) donate goods or services; or

7552 (B) provide goods or services at a nominal price or below cost;

7553 (iii) distribute goods to applicants or consumers of division services free or for a
7554 nominal charge and tax free; and

7555 (iv) appeal to the public for funds to meet needs of applicants or consumers of division
7556 services that are not otherwise provided by law, including Sub-for-Santa programs, recreational
7557 programs for minors, and requests for household appliances and home repairs.

7558 (b) If requested by the donor and subject to state and federal law, the division shall use
7559 a gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for the
7560 purpose requested by the donor.

7561 (5) (a) In carrying out the requirements of Subsection (2)(f), the division shall:

7562 (i) cooperate with the juvenile courts, the [~~Division of Juvenile Justice Services~~]
7563 Division of Juvenile Justice and Youth Services, and with all public and private licensed child
7564 welfare agencies and institutions to develop and administer a broad range of services and
7565 support;

7566 (ii) take the initiative in all matters involving the protection of abused or neglected
7567 children, if adequate provisions have not been made or are not likely to be made; and

7568 (iii) make expenditures necessary for the care and protection of the children described
7569 in Subsection (5)(a)(ii), within the division's budget.

7570 (b) If an individual is referred to a local substance abuse authority or other private or
7571 public resource for court-ordered drug screening under Subsection (2)(n), the court shall order
7572 the individual to pay all costs of the tests unless:

7573 (i) the cost of the drug screening is specifically funded or provided for by other federal
7574 or state programs;

- 7575 (ii) the individual is a participant in a drug court; or
7576 (iii) the court finds that the individual is an indigent individual.
- 7577 (6) Except to the extent provided by rules made in accordance with Title 63G, Chapter
7578 3, Utah Administrative Rulemaking Act, the division is not required to investigate domestic
7579 violence in the presence of a child, as described in Section 76-5-114.
- 7580 (7) (a) Except as provided in Subsection (7)(b), the division may not:
- 7581 (i) require a parent who has a child in the custody of the division to pay for some or all
7582 of the cost of any drug testing the parent is required to undergo; or
- 7583 (ii) refer an individual who is receiving services from the division for drug testing by
7584 means of a hair, fingernail, or saliva test that is administered to detect the presence of drugs.
- 7585 (b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is
7586 receiving services from the division for drug testing by means of a saliva test if:
- 7587 (i) the individual consents to drug testing by means of a saliva test; or
7588 (ii) the court, based on a finding that a saliva test is necessary in the circumstances,
7589 orders the individual to complete drug testing by means of a saliva test.
- 7590 Section 103. Section **80-2-703** is amended to read:
- 7591 **80-2-703. Conflict child protective services investigations -- Authority of**
7592 **investigators.**
- 7593 (1) (a) The department, through the [~~Office of Quality and Design created in Section~~
7594 ~~62A-18-103~~] Division of Continuous Quality and Improvement, shall conduct an independent
7595 child protective service investigation to investigate reports of abuse or neglect if:
- 7596 (i) the report occurs while the child is in the custody of the division; or
7597 (ii) the executive director of the department determines that, if the division conducts
7598 the investigation, the division would have an actual or potential conflict of interest in the
7599 results of the investigation.
- 7600 (b) If a report is made while a child is in the custody of the division that indicates the
7601 child is abused or neglected:
- 7602 (i) the attorney general may, in accordance with Section 67-5-16, and with the consent
7603 of the department, employ a child protective services investigator to conduct a conflict
7604 investigation of the report; or
7605 (ii) a law enforcement officer, as defined in Section 53-13-103, may, with the consent

7606 of the department, conduct a conflict investigation of the report.

7607 (c) Subsection (1)(b)(ii) does not prevent a law enforcement officer from, without the
7608 consent of the department, conducting a criminal investigation of abuse or neglect under Title
7609 53, Public Safety Code.

7610 (2) An investigator described in Subsection (1) may also investigate allegations of
7611 abuse or neglect of a child by a department employee or a licensed substitute care provider.

7612 (3) An investigator described in Subsection (1), if not a law enforcement officer, shall
7613 have the same rights, duties, and authority of a child welfare caseworker to:

7614 (a) make a thorough investigation under Section 80-2-701 upon receiving a report of
7615 alleged abuse or neglect of a child, with the primary purpose of the investigation being the
7616 protection of the child;

7617 (b) make an inquiry into the child's home environment, emotional, or mental health, the
7618 nature and extent of the child's injuries, and the child's physical safety;

7619 (c) make a written report of the investigator's investigation, including determination
7620 regarding whether the alleged abuse or neglect is supported, unsupported, or without merit, and
7621 forward a copy of the report to the division within the time mandates for investigations
7622 established by the division; and

7623 (d) immediately consult with school authorities to verify the child's status in
7624 accordance with Sections 53G-6-201 through 53G-6-206 if a report is based on or includes an
7625 allegation of educational neglect.

7626 Section 104. Section 80-2-1001 is amended to read:

7627 **80-2-1001. Management Information System -- Contents -- Classification of**
7628 **records -- Access.**

7629 (1) The division shall develop and implement a Management Information System that
7630 meets the requirements of this section and the requirements of federal law and regulation.

7631 (2) The Management Information System shall:

7632 (a) contain all key elements of each family's current child and family plan, including:

7633 (i) the dates and number of times the plan has been administratively or judicially
7634 reviewed;

7635 (ii) the number of times the parent failed the child and family plan; and

7636 (iii) the exact length of time the child and family plan has been in effect; and

7637 (b) alert child welfare caseworkers regarding deadlines for completion of and
7638 compliance with policy, including child and family plans.

7639 (3) For a child welfare case, the Management Information System shall provide each
7640 child welfare caseworker and the ~~Office of Licensing~~ Division of Licensing and Background
7641 Checks created in Section 26B-2-103, exclusively for the purposes of foster parent licensure
7642 and monitoring, with a complete history of each child in the child welfare caseworker's
7643 caseload, including:

7644 (a) a record of all past action taken by the division with regard to the child and the
7645 child's siblings;

7646 (b) the complete case history and all reports and information in the control or keeping
7647 of the division regarding the child and the child's siblings;

7648 (c) the number of times the child has been in the protective custody, temporary
7649 custody, and custody of the division;

7650 (d) the cumulative period of time the child has been in the custody of the division;

7651 (e) a record of all reports of abuse or neglect received by the division with regard to the
7652 child's parent or guardian including:

7653 (i) for each report, documentation of the:

7654 (A) latest status; or

7655 (B) final outcome or determination; and

7656 (ii) information that indicates whether each report was found to be:

7657 (A) supported;

7658 (B) unsupported;

7659 (C) substantiated;

7660 (D) unsubstantiated; or

7661 (E) without merit;

7662 (f) the number of times the child's parent failed any child and family plan; and

7663 (g) the number of different child welfare caseworkers who have been assigned to the
7664 child in the past.

7665 (4) For child protective services cases, the Management Information System shall:

7666 (a) monitor the compliance of each case with:

7667 (i) division rule;

7668 (ii) state law; and
7669 (iii) federal law and regulation; and
7670 (b) include the age and date of birth of the alleged perpetrator at the time the abuse or
7671 neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of
7672 the alleged perpetrator.

7673 (5) Information or a record contained in the Management Information System is:
7674 (a) a private, controlled, or protected record under Title 63G, Chapter 2, Government
7675 Records Access and Management Act; and
7676 (b) available only:
7677 (i) to a person or government entity with statutory authorization under Title 63G,
7678 Chapter 2, Government Records Access and Management Act, to review the information or
7679 record;
7680 (ii) to a person who has specific statutory authorization to access the information or
7681 record for the purpose of assisting the state with state or federal requirements to maintain
7682 information solely for the purpose of protecting minors and providing services to families in
7683 need;
7684 (iii) to the extent required by Title IV(b) or IV(e) of the Social Security Act:
7685 (A) to comply with abuse and neglect registry checks requested by other states; or
7686 (B) to the United States Department of Health and Human Services for purposes of
7687 maintaining an electronic national registry of supported or substantiated cases of abuse and
7688 neglect;
7689 (iv) to the department, upon the approval of the executive director of the department,
7690 on a need-to-know basis;
7691 (v) as provided in Subsection (6) or Section [80-2-1002](#); or
7692 (vi) to a citizen review panel for the purpose of fulfilling the panel's duties as described
7693 in Section [80-2-1101](#).

7694 (6) (a) The division may allow a division contract provider, court clerk designated by
7695 the Administrative Office of the Courts, the Office of Guardian Ad Litem, or Indian tribe to
7696 have limited access to the Management Information System.
7697 (b) A division contract provider or Indian tribe has access only to information about a
7698 person who is currently receiving services from the specific contract provider or Indian tribe.

7699 (c) A court clerk may only have access to information necessary to comply with
7700 Subsection 78B-7-202(2).

7701 (d) (i) The Office of Guardian Ad Litem may only access:

7702 (A) the information that is entered into the Management Information System on or after
7703 July 1, 2004, and relates to a child or family where the Office of Guardian Ad Litem is
7704 appointed by a court to represent the interests of the child; or

7705 (B) any abuse or neglect referral about a child or family where the office has been
7706 appointed by a court to represent the interests of the child, regardless of the date that the
7707 information is entered into the Management Information System.

7708 (ii) The division may use the information in the Management Information System to
7709 screen an individual as described in Subsection 80-2-1002(4)(b)(ii)(A) at the request of the
7710 Office of Guardian Ad Litem.

7711 (e) A contract provider or designated representative of the Office of Guardian Ad
7712 Litem or an Indian tribe who requests access to information contained in the Management
7713 Information System shall:

7714 (i) take all necessary precautions to safeguard the security of the information contained
7715 in the Management Information System;

7716 (ii) train its employees regarding:

7717 (A) requirements for protecting the information contained in the Management
7718 Information System under this chapter and under Title 63G, Chapter 2, Government Records
7719 Access and Management Act; and

7720 (B) the criminal penalties under Sections 63G-2-801 and 80-2-1005 for improper
7721 release of information; and

7722 (iii) monitor its employees to ensure that the employees protect the information
7723 contained in the Management Information System as required by law.

7724 (7) The division shall take:

7725 (a) all necessary precautions, including password protection and other appropriate and
7726 available technological techniques, to prevent unauthorized access to or release of information
7727 contained in the Management Information System; and

7728 (b) reasonable precautions to ensure that the division's contract providers comply with
7729 Subsection (6).

7730 Section 105. Section **80-2-1002** is amended to read:

7731 **80-2-1002. Licensing Information System -- Contents -- Classification of records**
7732 **-- Access -- Unlawful release -- Penalty.**

7733 (1) (a) The division shall maintain a sub-part of the Management Information System
7734 as the Licensing Information System to be used:

7735 (i) for licensing purposes; or

7736 (ii) as otherwise provided by law.

7737 (b) Notwithstanding Subsection (1)(a), the department's access to information in the
7738 Management Information System for the licensure and monitoring of a foster parent is
7739 governed by Sections **80-2-1001** and **26B-2-121**.

7740 (2) The Licensing Information System shall include only the following information:

7741 (a) the name and other identifying information of the alleged perpetrator in a supported
7742 finding, without identifying the alleged perpetrator as a perpetrator or alleged perpetrator;

7743 (b) a notation to the effect that an investigation regarding the alleged perpetrator
7744 described in Subsection (2)(a) is pending;

7745 (c) the information described in Subsection (3);

7746 (d) consented-to supported findings by an alleged perpetrator under Subsection
7747 **80-2-708(3)(a)(iii)**;

7748 (e) a finding from the juvenile court under Section **80-3-404**; and

7749 (f) the information in the licensing part of the division's Management Information
7750 System as of May 6, 2002.

7751 (3) Subject to Section **80-2-1003**, upon receipt of a finding from the juvenile court
7752 under Section **80-3-404**, the division shall:

7753 (a) promptly amend the Licensing Information System to include the finding; and

7754 (b) enter the finding in the Management Information System.

7755 (4) Information or a record contained in the Licensing Information System is:

7756 (a) a protected record under Title 63G, Chapter 2, Government Records Access and
7757 Management Act; and

7758 (b) notwithstanding Title 63G, Chapter 2, Government Records Access and
7759 Management Act, accessible only:

7760 (i) to the [~~Office of Licensing~~] Division of Licensing and Background Checks created

7761 in Section 26B-2-103:

7762 (A) for licensing purposes; or

7763 (B) as otherwise specifically provided for by law;

7764 (ii) to the division to:

7765 (A) screen an individual at the request of the Office of Guardian Ad Litem at the time
7766 the individual seeks a paid or voluntary position with the Office of Guardian Ad Litem and
7767 annually throughout the time that the individual remains with the Office of Guardian Ad Litem;
7768 and

7769 (B) respond to a request for information from an individual whose name is listed in the
7770 Licensing Information System;

7771 (iii) to a person designated by the Department of Health and Human Services, only for
7772 the following purposes:

7773 (A) licensing a child care program or provider;

7774 (B) determining whether an individual associated with a child care facility, program, or
7775 provider, who is exempt from being licensed or certified by the Department of Health and
7776 Human Services under Title 26B, Chapter 2, Part 4, Child Care Licensing, has a supported
7777 finding of a severe type of child abuse or neglect; or

7778 (C) determining whether an individual who is seeking an emergency medical services
7779 license has a supported finding of a severe type of child abuse or neglect;

7780 (iv) to a person designated by the Department of Workforce Services and approved by
7781 the Department of Health and Human Services for the purpose of qualifying a child care
7782 provider under Section 35A-3-310.5;

7783 (v) as provided in Section 26B-2-121; or

7784 (vi) to the department or another person, as provided in this chapter.

7785 (5) A person designated by the Department of Health and Human Services or the
7786 Department of Workforce Services under Subsection (4) shall adopt measures to:

7787 (a) protect the security of the Licensing Information System; and

7788 (b) strictly limit access to the Licensing Information System to persons allowed access
7789 by statute.

7790 (6) The department shall approve a person allowed access by statute to information or a
7791 record contained in the Licensing Information System and provide training to the person with

7792 respect to:

7793 (a) accessing the Licensing Information System;

7794 (b) maintaining strict security; and

7795 (c) the criminal provisions of Sections 63G-2-801 and 80-2-1005 pertaining to the

7796 improper release of information.

7797 (7) (a) Except as authorized by this chapter, a person may not request another person to

7798 obtain or release any other information in the Licensing Information System to screen for

7799 potential perpetrators of abuse or neglect.

7800 (b) A person who requests information knowing that the request is a violation of this

7801 Subsection (7) is subject to the criminal penalties described in Sections 63G-2-801 and

7802 80-2-1005.

7803 Section 106. Section 80-3-409 is amended to read:

7804 **80-3-409. Permanency hearing -- Final plan -- Petition for termination of**

7805 **parental rights filed -- Hearing on termination of parental rights.**

7806 (1) (a) If reunification services are ordered under Section 80-3-406, with regard to a

7807 minor who is in the custody of the division, the juvenile court shall hold a permanency hearing

7808 no later than 12 months after the day on which the minor is initially removed from the minor's

7809 home.

7810 (b) If reunification services are not ordered at the dispositional hearing, the juvenile

7811 court shall hold a permanency hearing within 30 days after the day on which the dispositional

7812 hearing ends.

7813 (2) (a) If reunification services are ordered in accordance with Section 80-3-406, the

7814 juvenile court shall, at the permanency hearing, determine, consistent with Subsection (3),

7815 whether the minor may safely be returned to the custody of the minor's parent.

7816 (b) If the juvenile court finds, by a preponderance of the evidence, that return of the

7817 minor to the minor's parent would create a substantial risk of detriment to the minor's physical

7818 or emotional well-being, the minor may not be returned to the custody of the minor's parent.

7819 (c) Prima facie evidence that return of the minor to a parent or guardian would create a

7820 substantial risk of detriment to the minor is established if:

7821 (i) the parent or guardian fails to:

7822 (A) participate in a court approved child and family plan;

- 7823 (B) comply with a court approved child and family plan in whole or in part; or
7824 (C) meet the goals of a court approved child and family plan; or
7825 (ii) the minor's natural parent:
- 7826 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
7827 minor;
- 7828 (B) is identified by a law enforcement agency as the primary suspect in an investigation
7829 for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or
7830 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
7831 recklessly causing the death of another parent of the minor.
- 7832 (3) In making a determination under Subsection (2)(a), the juvenile court shall:
- 7833 (a) review and consider:
- 7834 (i) the report prepared by the division;
- 7835 (ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered by
7836 the minor's attorney guardian ad litem;
- 7837 (iii) any report submitted by the division under Subsection 80-3-408(3)(a)(i);
7838 (iv) any evidence regarding the efforts or progress demonstrated by the parent; and
7839 (v) the extent to which the parent cooperated and used the services provided; and
7840 (b) attempt to keep the minor's sibling group together if keeping the sibling group
7841 together is:
- 7842 (i) practicable; and
7843 (ii) in accordance with the best interest of the minor.
- 7844 (4) With regard to a case where reunification services are ordered by the juvenile court,
7845 if a minor is not returned to the minor's parent or guardian at the permanency hearing, the
7846 juvenile court shall, unless the time for the provision of reunification services is extended
7847 under Subsection (7):
- 7848 (a) order termination of reunification services to the parent;
- 7849 (b) make a final determination regarding whether termination of parental rights,
7850 adoption, or permanent custody and guardianship is the most appropriate final plan for the
7851 minor, taking into account the minor's primary permanency plan established by the juvenile
7852 court under Section 80-3-406; and
7853 (c) in accordance with Subsection 80-3-406(2), establish a concurrent permanency plan

7854 that identifies the second most appropriate final plan for the minor, if appropriate.

7855 (5) The juvenile court may order another planned permanent living arrangement other
7856 than reunification for a minor who is 16 years old or older upon entering the following
7857 findings:

7858 (a) the division has documented intensive, ongoing, and unsuccessful efforts to reunify
7859 the minor with the minor's parent or parents, or to secure a placement for the minor with a
7860 guardian, an adoptive parent, or an individual described in Subsection 80-3-301(6)(e);

7861 (b) the division has demonstrated that the division has made efforts to normalize the
7862 life of the minor while in the division's custody, in accordance with Section 80-2-308;

7863 (c) the minor prefers another planned permanent living arrangement; and

7864 (d) there is a compelling reason why reunification or a placement described in
7865 Subsection (5)(a) is not in the minor's best interest.

7866 (6) Except as provided in Subsection (7), the juvenile court may not extend
7867 reunification services beyond 12 months after the day on which the minor is initially removed
7868 from the minor's home, in accordance with the provisions of Section 80-3-406.

7869 (7) (a) Subject to Subsection (7)(b), the juvenile court may extend reunification
7870 services for no more than 90 days if the juvenile court finds, [~~beyond~~] by a preponderance of
7871 the evidence, that:

7872 (i) there has been substantial compliance with the child and family plan;

7873 (ii) reunification is probable within that 90-day period; and

7874 (iii) the extension is in the best interest of the minor.

7875 (b) (i) Except as provided in Subsection (7)(c), the juvenile court may not extend any
7876 reunification services beyond 15 months after the day on which the minor is initially removed
7877 from the minor's home.

7878 (ii) Delay or failure of a parent to establish paternity or seek custody does not provide a
7879 basis for the juvenile court to extend services for the parent beyond the 12-month period
7880 described in Subsection (6).

7881 (c) In accordance with Subsection (7)(d), the juvenile court may extend reunification
7882 services for one additional 90-day period, beyond the 90-day period described in Subsection
7883 (7)(a), if:

7884 (i) the juvenile court finds, by clear and convincing evidence, that:

- 7885 (A) the parent has substantially complied with the child and family plan;
- 7886 (B) it is likely that reunification will occur within the additional 90-day period; and
- 7887 (C) the extension is in the best interest of the minor;
- 7888 (ii) the juvenile court specifies the facts upon which the findings described in
- 7889 Subsection (7)(c)(i) are based; and
- 7890 (iii) the juvenile court specifies the time period in which it is likely that reunification
- 7891 will occur.
- 7892 (d) A juvenile court may not extend the time period for reunification services without
- 7893 complying with the requirements of this Subsection (7) before the extension.
- 7894 (e) In determining whether to extend reunification services for a minor, a juvenile court
- 7895 shall take into consideration the status of the minor siblings of the minor.
- 7896 (8) (a) At the permanency hearing, if a child remains in an out-of-home placement, the
- 7897 juvenile court shall:
- 7898 (i) make specific findings regarding the conditions of parent-time that are in the child's
- 7899 best interest; and
- 7900 (ii) if parent-time is denied, state the facts that justify the denial.
- 7901 (b) Parent-time shall be under the least restrictive conditions necessary to:
- 7902 (i) protect the physical safety of the child; or
- 7903 (ii) prevent the child from being traumatized by contact with the parent due to the
- 7904 child's fear of the parent in light of the nature of the alleged abuse or neglect.
- 7905 (c) (i) The division or the person designated by the division or a court to supervise a
- 7906 parent-time session may deny parent-time for the session if the division or the supervising
- 7907 person determines that, based on the parent's condition, it is necessary to deny parent-time to:
- 7908 (A) protect the physical safety of the child;
- 7909 (B) protect the life of the child; or
- 7910 (C) consistent with Subsection (8)(c)(ii), prevent the child from being traumatized by
- 7911 contact with the parent.
- 7912 (ii) In determining whether the condition of the parent described in Subsection (8)(c)(i)
- 7913 will traumatize a child, the division or the person supervising the parent-time session shall
- 7914 consider the impact that the parent's condition will have on the child in light of:
- 7915 (A) the child's fear of the parent; and

7916 (B) the nature of the alleged abuse or neglect.

7917 (9) The juvenile court may, in the juvenile court's discretion:

7918 (a) enter any additional order that the juvenile court determines to be in the best

7919 interest of the minor, so long as that order does not conflict with the requirements and

7920 provisions of Subsections (4) through (8); or

7921 (b) order the division to provide protective supervision or other services to a minor and

7922 the minor's family after the division's custody of a minor is terminated.

7923 (10) (a) If the final plan for the minor is to proceed toward termination of parental

7924 rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45

7925 calendar days after the day on which the permanency hearing is held.

7926 (b) If the division opposes the plan to terminate parental rights, the juvenile court may

7927 not require the division to file a petition for the termination of parental rights, except as

7928 required under Subsection [80-4-203\(2\)](#).

7929 (11) (a) Any party to an action may, at any time, petition the juvenile court for an

7930 expedited permanency hearing on the basis that continuation of reunification efforts are

7931 inconsistent with the permanency needs of the minor.

7932 (b) If the juvenile court so determines, the juvenile court shall order, in accordance
7933 with federal law, that:

7934 (i) the minor be placed in accordance with the permanency plan; and

7935 (ii) whatever steps are necessary to finalize the permanent placement of the minor be

7936 completed as quickly as possible.

7937 (12) Nothing in this section may be construed to:

7938 (a) entitle any parent to reunification services for any specified period of time;

7939 (b) limit a juvenile court's ability to terminate reunification services at any time before

7940 a permanency hearing; or

7941 (c) limit or prohibit the filing of a petition for termination of parental rights by any

7942 party, or a hearing on termination of parental rights, at any time before a permanency hearing

7943 provided that relative placement and custody options have been fairly considered in accordance

7944 with Sections [80-2a-201](#) and [80-4-104](#).

7945 (13) (a) Subject to Subsection (13)(b), if a petition for termination of parental rights is

7946 filed before the date scheduled for a permanency hearing, the juvenile court may consolidate

7947 the hearing on termination of parental rights with the permanency hearing.

7948 (b) For purposes of Subsection (13)(a), if the juvenile court consolidates the hearing on
7949 termination of parental rights with the permanency hearing:

7950 (i) the juvenile court shall first make a finding regarding whether reasonable efforts
7951 have been made by the division to finalize the permanency plan for the minor; and

7952 (ii) any reunification services shall be terminated in accordance with the time lines
7953 described in Section [80-3-406](#).

7954 (c) The juvenile court shall make a decision on a petition for termination of parental
7955 rights within 18 months after the day on which the minor is initially removed from the minor's
7956 home.

7957 (14) (a) If a juvenile court determines that a minor will not be returned to a parent of
7958 the minor, the juvenile court shall consider appropriate placement options inside and outside of
7959 the state.

7960 (b) In considering appropriate placement options under Subsection (14)(a), the juvenile
7961 court shall provide preferential consideration to a relative's request for placement of the minor.

7962 (15) (a) In accordance with Section [80-3-108](#), if a minor 14 years old or older desires
7963 an opportunity to address the juvenile court or testify regarding permanency or placement, the
7964 juvenile court shall give the minor's wishes added weight, but may not treat the minor's wishes
7965 as the single controlling factor under this section.

7966 (b) If the juvenile court's decision under this section differs from a minor's express
7967 wishes if the minor is of sufficient maturity to articulate the wishes in relation to permanency
7968 or the minor's placement, the juvenile court shall make findings explaining why the juvenile
7969 court's decision differs from the minor's wishes.

7970 (16) (a) If, for a relative placement, an interstate placement requested under the
7971 Interstate Compact on the Placement of Children has been initiated by the division or is ordered
7972 by or pending before the juvenile court, the court may not finalize a non-relative placement
7973 unless the court gives due weight to:

7974 (i) the preferential consideration granted to a relative in Section [80-3-302](#);

7975 (ii) the rebuttable presumption in Section [80-3-302](#); and

7976 (iii) the division's placement authority under Subsections [80-1-102\(50\)](#) and
7977 [80-3-303\(1\)](#).

7978 (b) Nothing in this section affects the ability of a foster parent to petition the juvenile
7979 court under Subsection 80-3-502(3).

7980 Section 107. Section 80-5-102 is amended to read:

7981 **80-5-102. Definitions.**

7982 As used in this chapter:

7983 (1) "Account" means the Juvenile Justice Reinvestment Restricted Account created in
7984 Section 80-5-302.

7985 (2) (a) "Adult" means an individual who is 18 years old or older.

7986 (b) "Adult" does not include a juvenile offender.

7987 (3) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R.
7988 1351.1.

7989 (4) "Authority" means the Youth Parole Authority created in Section 80-5-701.

7990 (5) "Control" means the authority to detain, restrict, and supervise a juvenile offender
7991 in a manner consistent with public safety and the well-being of the juvenile offender and
7992 division employees.

7993 (6) "Director" means the director of the [~~Division of Juvenile Justice Services~~]
7994 Division of Juvenile Justice and Youth Services.

7995 (7) "Discharge" means the same as that term is defined in Section 80-6-102.

7996 (8) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile
7997 Justice and Youth Services created in Section 80-5-103.

7998 (9) "Homeless youth" means a child, other than an emancipated minor:

7999 (a) who is a runaway; or

8000 (b) who is:

8001 (i) not accompanied by the child's parent or guardian; and

8002 (ii) without care, as defined in Section 80-5-602.

8003 (10) "Observation and assessment program" means a nonresidential service program
8004 operated or purchased by the division that is responsible only for diagnostic assessment of
8005 minors, including for substance use disorder, mental health, psychological, and sexual behavior
8006 risk assessments.

8007 (11) "Performance based contracting" means a system of contracting with service
8008 providers for the provision of residential or nonresidential services that:

- 8009 (a) provides incentives for the implementation of evidence-based juvenile justice
8010 programs or programs rated as effective for reducing recidivism by a standardized tool in
8011 accordance with Section 63M-7-208; and
- 8012 (b) provides a premium rate allocation for a minor who receives the evidence-based
8013 dosage of treatment and successfully completes the program within three months.
- 8014 (12) "Rescission" means the same as that term is defined in Section 80-6-102.
- 8015 (13) "Restitution" means the same as that term is defined in Section 80-6-102.
- 8016 (14) "Revocation" means the same as that term is defined in Section 80-6-102.
- 8017 (15) "Temporary custody" means the same as that term is defined in Section 80-6-102.
- 8018 (16) "Temporary homeless youth shelter" means a facility that:
- 8019 (a) provides temporary shelter to homeless youth; and
- 8020 (b) is licensed by the Department of Health and Human Services, created in Section
8021 26B-1-201, as a residential support program.
- 8022 (17) "Termination" means the same as that term is defined in Section 80-6-102.
- 8023 (18) "Victim" means the same as that term is defined in Section 80-6-102.
- 8024 (19) "Work program" means a nonresidential public or private service work project
8025 established and administered by the division for juvenile offenders for the purpose of
8026 rehabilitation, education, and restitution to victims.
- 8027 (20) (a) "Youth services" means services provided in an effort to resolve family
8028 conflict:
- 8029 (i) for families in crisis when a minor is ungovernable or a runaway; or
- 8030 (ii) involving a minor and the minor's parent or guardian.
- 8031 (b) "Youth services" include efforts to:
- 8032 (i) resolve family conflict;
- 8033 (ii) maintain or reunite minors with the minors' families; and
- 8034 (iii) divert minors from entering or escalating in the juvenile justice system.
- 8035 (c) "Youth services" may provide:
- 8036 (i) crisis intervention;
- 8037 (ii) short-term shelter;
- 8038 (iii) time-out placement; and
- 8039 (iv) family counseling.

8040 (21) "Youth services center" means a center established by, or under contract with, the
8041 division to provide youth services.

8042 Section 108. Section **80-5-103** is amended to read:

8043 **80-5-103. Creation of division -- Jurisdiction.**

8044 (1) There is created the [~~Division of Juvenile Justice Services~~] Division of Juvenile
8045 Justice and Youth Services within the department.

8046 (2) The division shall be under the administration and supervision of the executive
8047 director of the department.

8048 (3) The division has jurisdiction over all minors committed to the division under
8049 Sections **80-6-703** and **80-6-705**.

8050 Section 109. Section **80-5-401** is amended to read:

8051 **80-5-401. Youth services for prevention and early intervention -- Program**
8052 **standards -- Program services.**

8053 (1) The division shall establish and operate prevention and early intervention youth
8054 services programs which shall include evidence-informed and research-informed interventions
8055 to:

- 8056 (a) help youth and families avoid entry into the juvenile justice system; and
- 8057 (b) improve attendance and academic achievement.

8058 (2) The division shall adopt statewide policies and procedures, including minimum
8059 standards for the organization and operation of youth services programs.

8060 (3) The division shall establish housing, programs, and procedures to ensure that
8061 minors who are receiving services under this section and who are not committed to the division
8062 are served separately from minors who are committed to the division.

8063 (4) The division may enter into contracts with state and local governmental entities and
8064 private providers to provide the youth services.

8065 (5) The division shall establish and administer juvenile receiving centers and other
8066 programs to provide temporary custody, care, risk-needs assessments, evaluations, and control
8067 for nonadjudicated and adjudicated minors placed with the division.

8068 (6) The division shall prioritize use of evidence-based juvenile justice programs and
8069 practices.

8070 (7) Youth receiving services under this section or from the division may not be placed

8071 into the legal custody of the division unless the youth qualifies for such disposition under
8072 Section 80-6-703.

8073 Section 110. Section **80-6-102** is amended to read:

8074 **80-6-102. Definitions.**

8075 As used in this chapter:

8076 (1) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R.
8077 1351.1.

8078 (2) "Authority" means the Youth Parole Authority created in Section 80-5-701.

8079 (3) "Commission" means the State Commission on Criminal and Juvenile Justice
8080 created in Section 63M-7-201.

8081 (4) "Compensatory service" means service or unpaid work performed by a minor in
8082 lieu of the payment of a fine, fee, or restitution.

8083 (5) "Control" means the same as that term is defined in Section 80-5-102.

8084 (6) "Detention hearing" means a proceeding under Section 80-6-207 to determine
8085 whether a minor should remain in detention.

8086 (7) "Detention guidelines" means standards, established by the division in accordance
8087 with Subsection 80-5-202(1)(a), for the admission of a minor to detention.

8088 (8) "Discharge" means a written order of the authority that removes a juvenile offender
8089 from the authority's jurisdiction.

8090 (9) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile
8091 Justice and Youth Services created in Section 80-5-103.

8092 (10) "Family-based setting" means a home that is licensed to allow a minor to reside at
8093 the home, including a foster home, proctor care, or residential care by a professional parent.

8094 (11) "Formal referral" means a written report from a peace officer, or other person,
8095 informing the juvenile court that:

8096 (a) an offense committed by a minor is, or appears to be, within the juvenile court's
8097 jurisdiction; and

8098 (b) the minor's case must be reviewed by a juvenile probation officer or a prosecuting
8099 attorney.

8100 (12) "Material loss" means an uninsured:

8101 (a) property loss;

- 8102 (b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;
- 8103 (c) lost wages because of an injury, time spent as a witness, or time spent assisting the
- 8104 police or prosecution; or
- 8105 (d) medical expense.

8106 (13) "Referral" means a formal referral, a referral to the juvenile court under Section

8107 [53G-8-211](#), or a citation issued to a minor for which the juvenile court receives notice under

8108 Section [80-6-302](#).

8109 (14) "Rescission" means a written order of the authority that rescinds a date for parole.

8110 (15) "Restitution" means money or services that the juvenile court, or a juvenile

8111 probation officer if the minor agrees to a nonjudicial adjustment, orders a minor to pay or

8112 render to a victim for the minor's wrongful act or conduct.

8113 (16) "Revocation" means a written order of the authority that, after a hearing and

8114 determination under Section [80-6-806](#):

8115 (a) terminates supervision of a juvenile offender's parole; and

8116 (b) directs a juvenile offender to return to secure care.

8117 (17) "Temporary custody" means the control and responsibility of a minor, before an

8118 adjudication under Section [80-6-701](#), until the minor is released to a parent, guardian,

8119 responsible adult, or to an appropriate agency.

8120 (18) "Termination" means a written order of the authority that terminates a juvenile

8121 offender from parole.

8122 (19) (a) "Victim" means a person that the juvenile court determines suffered a material

8123 loss as a result of a minor's wrongful act or conduct.

8124 (b) "Victim" includes:

8125 (i) any person directly harmed by the minor's wrongful act or conduct in the course of

8126 the scheme, conspiracy, or pattern if the minor's wrongful act or conduct is an offense that

8127 involves an element of a scheme, a conspiracy, or a pattern of criminal activity; and

8128 (ii) the Utah Office for Victims of Crime.

8129 (20) "Violent felony" means the same as that term is defined in Section [76-3-203.5](#).

8130 (21) "Work program" means the same as that term is defined in Section [80-5-102](#).

8131 (22) "Youth services" means the same as that term is defined in Section [80-5-102](#).

8132 Section 111. **Effective date.**

- 8133 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.
- 8134 (2) The actions affecting the following sections take effect on July 1, 2024:
- 8135 (a) Section [26B-1-204](#) (Effective 07/01/24);
- 8136 (b) Section [26B-2-241](#) (Effective 07/01/24);
- 8137 (c) Section [53-2d-404](#) (Effective 07/01/24);
- 8138 (d) Section [53-2d-503](#) (Effective 07/01/24);
- 8139 (e) Section [53-2d-703](#) (Effective 07/01/24); and
- 8140 (f) Section [77-41-102](#) (Effective 07/01/24).